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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 21st, 1939

VOLUME 154

FINAL ARGUMENT

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10.30 A. M. Session,
21st December, 1939.

THE CHAIRMAN: All right, Mr. Frawley.

MR. FRAWLEY: Mr. Chairman and Mr. Commissioner, you will recall that I was about to leave the discussion of refining late yesterday afternoon and go to marketing when you asked me to give some thought to this proposition that there being no evidence except that of Dr. Brown with regard to the proper rate of return, what was the position of the Commission in that respect.

Now I have given some thought to that. I do not know that what I will have to say will be a great deal of help but I just thought about it and I say firstly, that there is not any concealing of my position, I am striving to strike at Dr. Brown's 13%. There is no question about that. I put it to the Commission very respectfully that the Commission is not sitting in Court. I think it is only a circumstance, - and I think a very happy circumstance, - that the Chairman is one of His Majesty's Judges but I do think there is a distinction, it seems to me, as I think I have said before that this Commission need not have held one single sitting nor have sworn any one single witness. They might have gone about seeking to find the answers to the questions of His Honour without the assistance of a bit of sworn evidence but very, very properly, it was decided to pursue another course and to hear what witnesses said and so, having adopted that situation, I do frankly admit that we have what Dr. Brown says and we have nothing to place against it and say as against Dr. Brown,"we have Mr. Jones saying, "Oh, no, in my opinion the proper rate of return is 11%",

or 9% or any other percent.

MR. HARVIE: We have Mr. Bronsden, I think, he is the only other witness who mentioned a rate other than pipe line matters and that is 15% over all.

MR. FRAWLEY: I hesitate to tell my learned friend that his Mr. Miller blandly told us that they were only looking for 5 or 6% on their service station investment.

I think this is of more than passing importance. I gave you the page reference yesterday as to when Mr. Miller gave it to us that this company of his only sought to find 5 or 6%.

MR. HARVIE: On one phase of the business.

MR. FRAWLEY: Yes, quite, on one very important phase of the business; certainly it has been put to us as being a very essential part of this company's business.

However, there is that. Well, I have set down all the evidence there is but frankly the question which the Chairman put to me is of a slightly different character, it is simply the evidence and opinion, what is the proper rate of return, and I was at the point of saying I had to admit that was the state of the evidence and furthermore just there, I think we are going to be agreed, all of us, that we will not find anything in Dr. Frey's evidence specifically approving that as the rate of return but I am also prepared to admit that inferentially and running through his evidence, that when Dr. Frey says he does not think there is anything in these prices which should be changed by Government intervention, he is always saying he is not sure yet that "Q" has found its place in these grades, - that is certainly an inference I want to discuss with you some time later, - but

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Dr. Frey, I think my friend, if he were put to it, could say that perhaps the effect of Dr. Frey's evidence, I was going to say the necessary effect of his evidence, when he says there is nothing wrong with these prices, with these prices, - because all Dr. Frey says is there is nothing wrong with the differentials from an internal point of view, - but is that a complete bar to this Commission saying, "Well, we just are not persuaded that this Industry should get 13%." Supposing Mr. Chairman you were impressed at all with anything I said yesterday that the consumer in this province was as much entitled to enjoy a thoroughly competitive price as the consumers in the rest of Canada enjoy, assuming you felt at all impressed by that kind of reasoning and you thought, yes, you had some duty upon you to see to that, well then I think Dr. Brown's opinion then must necessarily go.

THE CHAIRMAN: What figure did you say for the rest of Canada?

MR. FRAWLEY: 5.46% as it appears on Exhibit "713".

THE CHAIRMAN: That is for all Canada?

MR. FRAWLEY: That is the all-Canada picture and as I said, yes, that is right, that is the all-Canada picture and that is after a careful taking out of the financial information of Imperial, the information which relates solely to refining and marketing so that we have there ---

THE CHAIRMAN: Your Exhibit again is?

MR. FRAWLEY: The Exhibit is "713", Mr. Chairman, Exhibit "713".

THE CHAIRMAN: Mr. Frawley, I put to you what I put before, whether it be a Court or a Commission it seems to me to matter not but what is the probative effect of the evidence

and how we are to act on the evidence, is that not a matter for consideration? Supposing it was a Doctor who was the expert and he said that, "I find my patient has diabetes and it is my opinion that he will require a certain quantity of insulin three times a week.", would a Commission or a Board or a Court say, "Well I do not know, I have heard of other people who have lived without insulin. I am not going to accept this now.", well, perhaps so, it is quite open to argument, I am not closing the doors.

MR. FRAWLEY: No.

THE CHAIRMAN: I am putting that out as a sort of exaggerated case the other way.

MR. FRAWLEY: Yes, and I am rash enough to say that it might, you say that it doesn't matter whether it is a Court or a Commission, now I do not want to minimize the importance of this Commission, I associate myself with everybody and perhaps I should not in my position, it is a fact that this is a very important Commission and it is undertaking and it is discharging a very important duty and certainly we do not want any capricious opinion and these Commissioners would not give that kind of opinion in any event, but in a piece of litigation where there are issues involved, where there is directly before the Court the interest of litigants about to be determined and perhaps finally resolved for good and all, but in this Commission the Lieutenant Governor is asking for an opinion ---

THE CHAIRMAN: That is right.

MR. FRAWLEY: Upon which it is supposed, other things being equal, he will act and act completely but they are opinions for the consideration of the Lieutenant-Governor-in-Council and I just wonder whether on that exactness of

having to find it in a book, in the book, sworn evidence, supposing for instance, Mr. Chairman, now perhaps this does not answer the problem at all but supposing you were walking down the street and you spoke to a friend of yours in whom you had some confidence, that would be assumed, and he gave you something which seemed to combat, and perhaps finally combat what Dr. Brown has said. Now I take it, I submit confidently that you would be in a position to include that in your, in the evidence before you, in coming to an opinion for His Honour.

THE CHAIRMAN: I would feel that I would be taking a tremendous risk, without having the others, those whose interests were at stake, being allowed to examine that man who talked to me.

MR. FRAWLEY: Well then, that comes back uyou see to the exactitude and fairness which has surrounded this Commission but is it more than that, is it more than that, the Commission does not say, "Go out into a Court House and sit upon a Bench and swear witnesses", and so and so, the Commission simply says, "Find this evidence for His Honour."

THE CHAIRMAN: Surely, if it is entitled to any respect it must be primarily because it has been fair and will continue to be so.

MR. FRAWLEY: Well it would not be, of course, that would not amount to unfairness, to discuss it, to discuss the evidence with this man in the absence of my friends. Now it is eminently fair and that is all that has been done and I hope it will continue to be done, but I am getting down to answering the particular problem which is before us now.

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THE CHAIRMAN: Take that case I cited by way of illustration, what do you think of that, Mr. Frawley?

MR. FRAWLEY: I would think in Court, I would think in Court that when it was a question of the probability of the life of that patient, with the damages which would be attendant on the various probabilities of life, he will then --

THE CHAIRMAN: Take a Board, a Board of Compensation, the Compensation Board, let us get away from the atmosphere of the Court if you wish, it has to hand out compensation in accordance with its findings. That is the one extreme. The other is the measurement of the quantum of damages which you put to us yesterday where juries are so frequently told that it is incapable of calculation with mathematicall exactness and so they must do the best they can. Now there are those two.

MR. FRAWLEY: Certainly juries and for that matter Judges sitting as Judge and Jury, without being capricious at all ---

THE CHAIRMAN: There is a quantum of damages, I say, Mr. Frawley, supposing there were ten opinions here, without rejecting at all the submission you are making now, I could see that it would perhaps more readily be accepted if you invited us to settle in, somewhere in between that range of opinion.

MR. FRAWLEY: That would be a comparatively simple task I think.

THE CHAIRMAN: Yes, but where we have but the one opinion, supported to the extent it is by Mr. Bronsden's evidence, and I think you have evidence from the Imperial about the rate of return. I think I have a note of that

somewhere, from somebody, am I wrong about that, Mr. Nolan?

MR. NOLAN: I have no note of that.

THE CHAIRMAN: As to what they think is the proper rate of return on their money. I think very early on we had that evidence, do you remember that?

MR. PLOTKINS: Yes, I do. Several witnesses of the Imperial Oil mentioned that in connection with the refining end and in connection with marketing. I remember that.

THE CHAIRMAN: Anyway Mr. Frawley, there is a very great differences Now, gentlemen, it is my memory in the course of my reading in connection with the pipe line decision which we gave, that there is a decision of the Supreme Court of the United States bearing directly upon this, in which they reversed an opinion or a judgment of a Board because it had, after rejecting the evidence of experts, I forget now whether it was engineers or accountants or what, but a type of expert, that after rejecting the evidence of experts they had acted upon what they believed to be their own proper judgment in the matter. I do not say that it is germane but I do say that there is such a case because I have read it.

MR. FRAWLEY: I wonder, Mr. Chairman ----

THE CHAIRMAN: It could be found and if it was it would help us with our discussion, whether we recognize or not that we are bound by that decision, it would be helpful.

MR. NOLAN: It is in the memorandum I have prepared. I have not got it with me but I can get it in a very few minutes.

THE CHAIRMAN: Would you, Mr. Nolan, because I like to clean these things up as much as we can, Mr. Frawley,

as we go along. If Mr. Nolan has it we can get it in a few seconds. You see I think the point you are now on is of very great importance.

MR. FRAWLEY: Oh, yes, you see and as I say ---

THE CHAIRMAN: There is the submission that one would gather from what you have already said, which you will ultimately make, in connection with it.

MR. FRAWLEY: Yes, I am putting it on the ground and in my view it takes it rather out of Dr. Brown because if my submission, as I said before, if my submission is to be accepted then I think it is consistent for you to say, "Well now that is the opinion of Dr. Brown and there is nothing against that and we would have to act on that, 13% seems to be a fair rate of return.", but if there is any force in what I am suggesting, let that be the fair rate of return if you will, there would seem to be something, I say, "wrong" in a very, very broad sense of the word, seems to be something that needs to be corrected anyway, seems to be something that needs to be corrected, and all I am putting to you is if, just assume for the moment that you were impressed with that argument, let us assume then, then what do you do, you are prevented as it were from giving effect to your views in that respect.

THE CHAIRMAN: It might help us in this sense, and this is all for the purpose of bringing forward all arguments yea and nay, might it not help us in this sense that the true picture perhaps should be that Alberta should be lower and the other provinces higher so as to equalize it all, always having due regard to the scarcity of population which we have heard about and other considerations, of geography or matters

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of a peculiarly local nature.

MR. FRAWLEY: Of course, we have nothing ---

THE CHAIRMAN: We have not much to guide us about equalizing the thing. If it is right that all Canada should be the same, subject to those considerations which I mentioned, of population and so on, then we should have been considering the all-Canadian picture and we have not.

MR. FRAWLEY: Of course, I was thinking of that, Mr. Chairman, and that is why I said yesterday in rather an indirect way but only for the purposes of dealing effectively with this very argument, because it was for the purpose of making this argument that I sought to obtain from the company the all-Canada number 9 which I think would have been of great assistance to us. Well there was objection to that and the objection to it was given effect to by the Commission and that was rejected and the very thing you are now saying would then have been cleaned up but nevertheless I hesitate to think it would have taken us into another inquiry, we just couldn't have done it, a lengthy inquiry into what is happening in Quebec and Nova Scotia, that is out of the question but it would have been some help because, and then I am driven, driven, as I said yesterday, on the absence of that other being brought to the attention of this Commission, the attention of this Commission, we are told that prices in Nova Scotia are unfair, but the company is very placid about what goes on in the rest of Canada even although it only shows 5.4 and they must have known that we would suggest that the rate of return is too high in this province compared with all Canada and to combat that suggestion

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effectively they would have and I suggest they should have met it. They say there is cut-throat conditions,"we are losing money in these other provinces so don't hold that against us." They should have met that but they did not, that was not met at all and it looks like Alberta is providing the money in large part to pay the dividends of Imperial Oil which is all very well but I suggest if this competitive thing again that we have heard so much about, competition, well I say that it does prove this and it is useful for another argument which I will make, namely as to the necessity for a regulating board, competition has not worked effectively in this province and that there must be some urge and some stimulant and some helping up of the competitive forces in this province for the benefit of the consumer but frankly, and it is only subject to what the Supreme Court of the United States says and what that may bring out, I do not know that I can add anything to what I have been saying but I would not, I would not just like very much to contemplate that that would be the result because I want to give you, I want to strike a note of alarm right now, that there is no evidence at all, Mr. Chairman with regard to what is a fair rate of return in Alberta. Dr. Brown is talking refining, unless you have something from the Imperial but we have not and Dr. Brown's kind of evidence ---

MR. HARVIE: We have the evidence of Mr. Bronsden that it is 15% over the whole picture.

MR. PLOTKINS: And we have the evidence of Mr. Meltaberger who was questioned quite closely as to what was a fair profit and if I recall right, I think he said "the most you can get" is the proper answer when you consider the competition because in Western Canada, - you are talking

about the all-Canadian picture, - 5.6, yes, but in Eastern Canada you can get money considerably cheaper and conditions are more stable. The volume is not entirely dependent on crop conditions, so all those factors influence the rate of return, the same as when you take service station capital. You can get service station capital in the United States for 3 or 4% but you cannot get it for putting into a refinery.

MAJOR LIPSETT: Do you derive any argument at all, Mr. Frawley, from an examination of the rate of return which the public is willing to accept in a company of this kind. Supposing, I do not know what it is, but supposing it was on the market price of the shares?

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Supposing the public was satisfied to take 6½%.. You are asking now for a rate of 13% say. Well does that in effect mean that if the public is satisfied with a rate of 6½% that the balance there of 6½% is needed to put back into the business when you accept the profit of 13%?

MR. FRAWLEY: I think Mr. Commissioner that that has been dealt with and I would like to read you just two short paragraphs as to what Mr. Tanner says about this, after analizing all these things:

"As to the return and for the investor' ---

THE CHAIRMAN: That is Exhibit?

MR. FRAWLEY: Exhibit "713", Page 2:

"As to the return earned for the investor in Imperial
"Oil stock, this depends of course on what price the
"stock is purchased at. In 1938 the stock sold as
"high as 19.5/8 and as low as 14.1/4, and earned
".96¢ per share.'

That is 96 cents a share.

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"If purchased at the high of 19.5/8, the stock was
"earning 4.89% on cost, whereas at the low of 14.1/4
"earnings were 6.73% on cost.
" Since 1935 extra dividends have
"been paid, disbursements by way of dividends being
"greater than annual earnings, as the following figures
"show:
"Earnings per share 1938, 96 cents, 1937 98 cents,
"1936,95 cents, 1935 93 cents and 1934 95 cents:
"Dividends and extras paid, 1938 $1.25, 1937 $1.25,
"1936 $1.25, 1935 $1.25, 1934 92½ cents."

Now that is as much as is said about that but that is what an analysis of the public earnings shows what the investor gets, which ranged in 1938, the investor ranged from 4.89% to 6.73%.

(Go to Page 17,264)

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MR. COMMISSIONER LIPSETT: I do not know how it affects it, supposing you take that low, which is 6.73% , that is the highest return that the public expected at any time from the shares. Now if you give them that return and we were to accept the 13% argument, that means there is about 6½% more that goes back into the business of this expected profit of 13% the following year. Is not that the way it works out?

MR. FRAWLEY: Yes, that is quite right. You see, giving the best thought I can to what Dr. Brown says, is it not that he is saying that 13% is ideal but nobody gets it. They get 5 or 4% in the United States of America, and this 5.46 evidence you have just called my attention to, and these are the realities of life. And you are saying to me what should I tell a man who is about to embark upon the refining industry in Alberta, let us say. That is one way of looking at it, I agree. But I am bothered about whether that is the only way of looking at it. He says that then any money that they - that they will go away down and in order to assure themselves of something later, in order to guard against the three or four per cent, which he calls nothing, they must range higher than that. The objective what they must shoot at and what you as a public Utilities Board or some kind of a regulatory body - not treating is as a public utility - but what is the purpose of this evidence. Dr. Brown does not want any price fixing. He does not want any price fixing of any sort or description. So he is not talking about we sitting here as a Board to fix prices. But I say that these prices are too high because primarily they are higher than are paid in the

rest of Canada. They provide a rate of return that is so far in excess of what is the rate in the rest of Canada.....

MR. NOLAN: There is no evidence to show what the rate of return is in any other Province in Canada, nor what that rate of return in the rest of Canada is based upon. All we are asking this Commission to do is to give us a fair rate of return on the used and useful assets in this Province, in which are not included any such matters as unused service station properties. We are not asking this Commission, by reason of what is happening some place else to give us anything in that respect.

MR. FRAWLEY: Even so, I say that this is the only Province in Canada where the Imperial is getting any rate of return. I challenge my friend that his rate of return elsewhere does not in any way approach the rate of return in this Province.

MR. NOLAN: Mr. Frawley is making use of our refusal to provide this statement, and he is using the argument now which we were trying to prevent him from using by not putting him in possession of that statement. Because we knew what he would do. Now he is doing the very thing we were attempting to stop him from doing.

MR. FRAWLEY: I am certainly desirous of calling to the attention of this Commission what the Imperial Oil is doing in this Province and I say it is about twice, and more than that, about three times - well it is about three times what they are doing in all Canada. However, we have said all we can about that

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and I want to delay just as long as the Commission desires me to delay.....

THE CHAIRMAN: Well we have that case.

MR. NOLAN: I am not sure this is it. I remember that there was a case of McCardle v. Indianapolis Water Company. It was a United States Supreme Court case, and it was a judgment of Mr. Justice Butler's. In that case, Sir, the engineer for the City in his estimate of the value of the Company's plant included the then cost of reproduction less a deduction of approximately 25 per cent of estimated cost new to cover accrued depreciation. Mr. Justice Butler said:

> "The deduction was not based on an inspection of "the property. It was the result of a straight line "calculation based on age and the estimated or assumed "useful life of perishable elements. The commission's "report indicates that the property is well planned, "well maintained and efficient. Its chief engineer "inspected it, and estimated its condition by giving "effect to results of the examination and to the age "of the property.
>
> "The testimony of competent valuation engineers who "inspected the property and made estimates in respect "of its condition is to be preferred to mere calculations "based on averages and assumed probabilities. The "deduction made in the City's estimate cannot be "approved. "

Is that the case you thought of Sir?

THE CHAIRMAN: No, I do not think so, unless there is something more in the case.

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MR. NOLAN: That is the only note I have on it. Might I look again more thoroughly? And when I have found it I will mention it to Mr. Frawley.

THE CHAIRMAN: What is the name of that case?

MR. NOLAN: McCardle v. Indianapolis Water Company, 1926, 272 United States Supreme Court at Page 400. And then there is another reference 71 Lawyer's Edition at Page 316.

THE CHAIRMAN: I do not think that is the case unless there be language in the judgment..- the case I have in mind is, my memory of it is that the judgment of the Board was set aside on the ground that they had no right to act upon their own views.

MR. NOLAN: Was it mentioned in the interim Report, Mr. Chairman?

THE CHAIRMAN: I do not remember, Mr. Nolan. I just remember reading the case., I would not say no or yes.

MR. NOLAN: As Mr. Frawley says it is not likely it was in the Interim Report because you were not really concerned with this point at that time.

THE CHAIRMAN: No.

MR. NOLAN: Well we will have another look.

THE CHAIRMAN: All right, thank you.

MR. FRAWLEY: That is something we might come back to.

THE CHAIRMAN: Yes.

MR. FRAWLEY: In starting my discussion of marketing, I was giving you first, just for information

purposes and that is all, just running through what marketers there are and I was beginning with the Imperial Oil and telling you what their operation was and it might be just important to put on the record what the principal marketers are doing, or what all of them did and it is this. The Imperial Oil Limited, its gallonage was 24,540,921 gallons. I wonder if it would not be as well if I might read this into the record and the Reporter will have them all together.

	Gallonage	Percentage of total gallonage
1. Imperial Oil Limited	24,540,921 gals.	31.08%
2. British American Oil Company Limited	13,839,726 gals.	17.53%
3. Texas Company of Canada Limited	5,211,753 gals.	6.60%
4. North Star Oil Limited	5,057,960 gals.	6.41%
5. Great West Distributors Limited	4,745,815 gals.	6.01%
6. Maple Leaf Petroleum Limited	3,660,774 gals.	4.64%
7. Artic Oil Company Artic Oil Sales Limited	2,333,170 gals.	2.95%
8. Canadian Oil Company Limited	2,296,549 gals.	2.91%
9. Union Oil Company of Canada Limited	2,243,594 gals.	2.84%
10. Gas and Oil Products Limited	2,242,289 gals.	2.84%
11. Becker Oil Company Limited Becker Refineries Limited	2,192,355 gals.	2.78%.
12. Lion Oils Limited	1,663,533 gals.	2.11%
13. Bell Refining Company Limited Bell Distributors Limited	1,366,829 gals.	1.73%
14. Oughton Brothers	970,359 gals.	1.23%
15. Alberta Hi-Way Refineries Limited	548,174 gals.	.69%
16. H.M.Trimble and Sons	458,998 gals.	.58%
17. McColl Frontenac Oil Company Limited	454,483 gals.	.58%
All other companies	5,124,928 gals.	6.49%
	78,952,230 gals.	100.00%

J. J. Frawley, K.C.:

That is the 1939 picture. I just might tell you how the companies are going in nineteen thirty.....

MR. COMMISSIONER LIPSETT: You mean that is the 1938 picture?

MR. FRAWLEY: That is the 1938 picture. I might just stop for a moment and tell you how the companies are showing in 1939, only reading you the percentages for the first nine months of 1939. The Imperial Oil Company - well that is not very good because that is not broken down the way this is. No, I cannot give you anything comparable so it perhaps would not help. I can tell you what the Imperial Oil Company's Refinery gallonage is, but that is not marketing. As I say I hope that before the Commission is finished that there will be information of this kind prepared so that you will see exactly how the companies did in 1939 compared with 1938. It might help in many ways.

THE CHAIRMAN: Might I interrupt you? Mr. Harvie, you spoke of Mr. Bronsdon saying 15%. I suppose Counsel will go to the trouble of getting us the pages where anyone other than those Mr. Frawley has referred to have spoken on the subject of the rate of return.

MR. HARVIE: I have it now. It is at Exhibit "475", Page 21.

THE CHAIRMAN: I am sorry, Mr. Frawley. Mr. Nolan, if your clients have spoken on that subject I will be glad to know where they have done so.

MR. NOLAN: Yes.

MR. FRAWLEY: What Mr, Bronsdon says

was this. If you would like to have it. It is the last paragraph of this particular brief.

"Having in mind the foregoing," - that is costs and the risks of the industry -

"Having in mind the foregoing, it is submitted
"that the risks involved justify a high rate of
"return as compared with industry as a whole and
"it is considered that a return of 15% on capital
"employed in the oil industry, as a minimum, is
"reasonable. "

It is certainly unfortunate the American industry does not show anything like that.

MR. NOLAN: Yes. Now in connection with that I want to mention before I forget that yesterday Mr. Frawley said this was the considered judgment of Dr. Brown when he referred to the American rate of return of 3 or 4%.

MR. FRAWLEY: I said it was a considered judgment?

MR. NOLAN: Yes. The words that Dr. Brown used in referring to the American rate of return were "I am under the impression that the average rate of return is.....".

MR. FRAWLEY: I quoted those very words I think, not once but two or three times, to the Commission. I cannot make it into anything more than the witness says. If I did use the word "considered", it surely was an inadvertence. Now there is Exhibit "680" and I need do no more than mention it to the Commission. If the Commission wants to know anything

about any of these marketers, what their facilities are at any point in the Province, this Exhibit has a list of all the places where the companies operate outlets. It shows the kind of outlet, whether it is vertical tankage or underground tankage; warehouse facilities; shows in the case of the tankage what the capacity of the tanks are and the number of tanks and so on. Now, in connection with the Imperial I want to call your attention to what Mr. Cottle says in Volume 130, Page 14,506, where Mr. Cottle gave - not only for the Imperial but on that,page and some of those following pages he gave the marketing expense of the companies. He gave the marketing expense of the Imperial as 4.311 cents per gallon. Now he described that and my note is that that figure is "that is the total marketing expense divided by the total gallons of white goods. It is not the cost of marketing per gallon of white goods because it includes the cost of marketing lubricating oils, tires, etc. Its significance is entirely confined to its usefulness as a guide in comparing the various companies." And I intend to read what Mr.Cottle says on these pages because for the next dozen or so pages he gives the figures for all of tho companies. He refers to the Imperial in Volume 130 at Page 14,506. The British American Company with the gallonage that I have listed and the percentage of the whole in 1938, did not refine, it marketed. The 1938 refining was in a state of flux. There was no satisfactory evidence of its refining operations so it is impossible to tie in refining to marketing. Therefore, there has been no chance of analysis of its refining operation and it cannot, as the Imperial did, relate its

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marketing back to a definite refinery figure. When I use the word "flux" there, so there will be no misunderstanding about that, it is merely meant that the Bell Company, one of the British American subsidiaries, was refining part time and the Coutts plant was refining part time, and the Calgary Refining was done on a custom basis. The marketing costs of the British American on the basis that I indicated, was 4.796 cents. Now that statement of Mr. Cottle's is in Volume 130, at Page 14,507.

The Texas Company with its gallonage of 5,211,753 gallons, or 6.60% of the total; that company does no refining in Alberta. Its leaded gasolines are imported for itself and other jobbers, the third structure is bought locally. Exhibit "680" will give the Commission the extent of its distribution. We do not accept the refinery purchase figure of the Texas Company, which it has given us, and which has been so stressed in the evidence by the Texas Company in its submission. We do not accept that figure of 6¼ cents refinery purchase price, because the Profit and Loss Statement for the Company in this Province indicates very clearly that the refinery costs must be investigated. In other words, without becoming at all unparliamentary about it, we simply reject completely that figure of 6¼ cents as being the figure which, by itself, correctly described to this Commission the Texas operation, The Texas marketing operatinn is losing money. We say, therefore, that before this Commission can come to any opinion as to whether or not it is proper to start the Texas Company off with the price of 6¼ cents in this Province, or 7½ cents Imperial gallons, that we must

investigate the refining costs. We were willing to do that. We were willing to go to all the trouble of exploring these costs for the benefit of the Commission but the costs were refused. Nothing could be done about that because the Texas Company's costs were beyond the jurisdiction of this Commission. What I am saying is, it is more obvious from the fact that we know that the Texas Company can purchase its requirements in this Province from Alberta refineries at from 2 to 3 cents less. That is just an added reason why we reject the contention, and I respectfully submit that this Commission should completely reject the contention of the Texas Company, because the record does not extend beyond the invoice price of 7½ cents per Imperial gallon, at which the Texas Company brings its products into this Province.

Its marketing expense was 6.188 cents and that statement is made by Mr. Cottle at Volume 130, page 14,509.

The North Star Oil Company has a gallonage of 5,057,960 gallons.

THE CHAIRMAN: Will you give us the Texas Company costs of marketing?

MR. FRAWLEY: The marketing expense on that basis, as Mr. Cottle says, 6.188 cents. The North Star Oil Company enjoyed 6.41% of the business, just behind the Texas Company by a decinal point. It is a jobber from the Imperial. It conducts its operations throughout Manitoba, Saskatchewan and Alberta. Its accounts are not segregated from those of the accounts of the other Provinces, and so it was impossible for Mr. Cottle to come to any conclusion as to the profit

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performance here. Therefcre, we had to reject the North Star's performande as any guide to the marketing expense for the purpose of this Commission.

The Great West Distributors enjoyed 6.01% of the gallonage. It is a jobber from the British American Company. Its marketing expense as calculated by Mr. Cottle is 5.39 cents. This statement is made by Mr.Cottle in Volume 130 at page 14,510.

MR. COTTLE© You did not read the gallonage.

MR. FRASLEY: No, not the gallonage. I had already given the gallonage. It was 4,745,815. There was no segregation by this Company of its accounts by products, and it was therefore impossible to say what would be realized from gasoline as distinct from what was realized from lubricating oils and tires or anything else. So for that reason Mr.Cottle was compelled to reject it as being any useful guide to this Commission.

The Maple Leaf Petroleum had a gallonage of 3,660,774 gallons, and enjoyed 4.64% of the gallonage. It was a jobber from its parent company, the Imperial Oil. My submission is, borne out by the evidence, that it is not possible to know the cost and profit performance because of the nature of this Company's relations with the United Farmers of Alberta. Because of the nature of the financial responsibility and the financial participation by the two companies in the business of Maple Leaf Petroleum. And therefore, for our purposes of endeavour, to closely and as scientifically as we can arrive at the cost of marketing, we cannot take the Maple Leaf operation. As a matter

of fact there is a rather peculiar division of business in the Maple Leaf. Only in the two cities of Calgary and Edmonton does it operate any retail business, or does it own any retail facilities. Elsewhere throughout the Province the operation is performed partly by Maple Leaf and partly by the U.F.A.

Canadian Oil Companies Limited had a gallonage of 2,296,549 gallons.

MR. COMMISSIONER LIPSETT: Are you passing up Artic Oil?

MR. FRAWLEY: Yes, I am. In this I am simply taking those companies which Mr Cottle looked at. You remember we did not take all the companies. I think I can say that with respect to the companies we did not look at very closely, that they would not, any more than the companies I am now discussing, be of any assistance to the Commission in this respect.

Canadian Oil Company Limited. They had a gallonage of 2,296,549 gallons, or 2.91% of the business. That Company is a jobber from the Imperial Oil. Its marketing expense was 5.15 cents, so Mr. Cottle says in Volume 130, Page 14,509. What we say about that Company, in rejecting it from consideration, the kind of consideration we must enter upon here, is that the operation is small. It has a small volume. The operation is orthodox but it is not typical because there are not many service stations. There is no normal service station ownership as there is with other companies. Its operation is largely rural. And Mr. Cottle discusses that. I will give you the reference to that. Mr. Cottle discusses that it is necessary in

the end to take the Imperial Oil. That is what I am leading up to that the Commission, has no alternative but to take the marketing operation of the Imperial Oil and I am only running through these companies for the purpose of indicating why we cannot take them for this particular purpose.

The Union Oil Company of Canada had a gallonage of 2,243,594 gallons, and had 2.84% of the business. It is a jobber from Imperial. Its marketing expense is 7.74 cents, so it appears from what Mr.Cottle says in Volume 130, at Page 14,510. Its volume is small but it has not enough country business to be typical. It is the opposite of the Canadian Oil Company. The Canadian Oil Company has a very small service station operation and has a large rural business. The Union Oil Company is the opposite. Its cost, in any event, is out of all proportion to all other companies with a small gallonage.

Gas & Oil Products Limited had a gallonage of 2,242,289 gallons, or 2.84% of the business. That Company is fully integrated from production to marketing, to retail marketing. It is not typical, and the cost figures are not particularly useful. The operation is not uniform. The marketing process is not always carried to its normal conclusion of a tank waggon sale. In the industry as we know it in this Province, the normal operation is to carry the marketing process through to a tank waggon sale. Gas & Oil Products do not do that, as was made clear in the evidence. They have a variety of departures and exceptions from the normal tank waggon sale. It is,

therefore, impossible to form a satisfactory conclusion of the marketing with respect to the extent of the marketing spread or the marketing costs which are comparable to the costs of a company performing a normal operation.

The Becker Oil Company enjoyed a gallonage of 2,192,355 gallons, or 2.78% of the business. It performs a variety of marketing operations. Its accounts are all recorded in one set of accounts and it is not possible with no segregation to arrive at the cost of the normal complete operation from refinery door to tank waggon. That, of course, is what we are striving to know. We must place before the Commission a complete operation in the marketing from the refinery door to the tank waggon, and to the pump. In any event the tank waggon as far as there wholesalers, of course, are concerned. We find the Becker Oil Company does nor assist us in that Respect.

The Lion Oil Company does not assist us either. They had a gallonage of 1,663,535 gallons, which was 2.11% of the total gallonage. That company has no owned production. It refines and markets by wholesale and markets by retail. It also performs a variety of marketing operations. Their performance is all recorded in one set of accounts so that it was not possible, with no segregation, to arrive at the cost of the mnormal complete operation, refinery door to tank waggon.

Now I am not being misunderstood about that. Everything which I have said is not in the slightest sense critical. I simply say to endeavor to arrive at the basis of marketing costs we must place before the Commission a record of the complete operation. Now in Volume 130 at----

MR. PLOTKINS: Mr. Frawley, we did give you a complete break-down and we certainly went to a lot of expense to make it comparable and you have that to deal with.

MR. COTTLE: You have a complete break-down of sales of products but the analysis of your marketing expense is the expense of conducting a variety of marketing operations, not all of which by any means are complete tank waggon deliveries such as the normal marketing operation, which we are examining; much of your business is delivering to trucker dealers at your plant which is not the tank waggon price; that delivery operation is made to people to whom you sell, so it is impossible to say what your marketing expense is and say that that is a normal marketing expense of the tank waggon distribution, and that is what Mr. Frawley is saying.

MR. PLOTKINS: Mr. Chairman, we have actually given a break-down of the marketing expense and I beg to differ to this extent that it is true we did not market tank waggon on 100% basis but we do market on a tank waggon basis on the three distributing points and the fact that a man comes to the distributing point and chooses to take it 100 miles away,

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he still pays the tank waggon price at our distributing point and those figures which I submitted in my argument are based on this break-down which we went to the trouble ourselves to get and they are comparable to the Imperial Oil's. They certainly gave an index.

MAJOR LIPSETT: Have you given us the figure, Mr. Plotkins, of what your marketing cost is per gallon?

MR. PLOTKINS: Yes, we went to a complete break-down of marketing costs. The only difference and the only point that an accountant could take up and it would apply equally to the Imperial, would be that there was an arbitrary allocation of total administration expenses, total marketing expenses, as between the refinery product and the tires and tubes and lubricating oils and so forth but the same thing applies to the Imperial Oil.

MAJOR LIPSETT: Do you happen to remember what the figure was you arrived at?

MR. PLOTKINS: In my evidence I cannot say but I think it was around 2½¢ or something like that. I remember the comparable figure of the Imperial Oil, after eliminating a lot of extraneous matter, was 3.55¢. The present figure I understand that Mr. Frawley includes, it is just an arbitrary division of the total cost of marketing into the total volume and does not segregate the Imperial Oil's or any other extraneous matters, so that if the percentage of lubricating oils from one company to another varies, then the picture you are presenting is disturbed.

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MR. FRAWLEY: I think it would be a much more intelligent discussion if I first read what Mr. Cottle has to say because I think we are talking at cross-purposes. There is no doubt of the extent of the operation we have from these companies and I for one want to pay tribute to them for having gone to a considerable expense and trouble to give us this but all I am concerned about is to present to this Commission what it costs to market a gallon of gasoline as we know it here and now Mr. Cottle has given as his reason, and he sets it out in this part of the transcript, and if I could read this transcript and after I have read it, if it is not clear to the interested parties why he did it, then we will hear from them.

Mr. Cottle says this at page 14,441, of Volume 130:

"A. As Dr. Frey has indicated I propose to
" present a concise summary of the fin-
" ancial performance of the marketing phase
" of the industry in relation to prices.
" A summary of this kind
" would seem to require a consolidation of all
" of the financial astatements of all of the
" people engaged in the marketing phase of
" the Industry. This I have found to be im-
" possible, however, firstly because of the
" lack of uniformity in the classification
" of accounts of the various companies in-

"volved; even if there were a uniform classifi-
"cation of accounts, however, the operations
"themselves of the various companies are so dis-
"similar that no classification, no single
"classification of account would reflect the
"performance of each of the marketers; for in-
"stance, I do not know how one could consolidate
"the operations of say Trimble who markets
"gasoline from Montana and delivers directly
"from the importing truck to customers, with
"the operations of say Becker who operates
"salaried service stations."

One of Mr. Becker's.

"Moreover the accounts are not available in
"great detail from some of these companies.
"The North Star, for instance, is a rather
"large marketer and that company does not at-
"tempt to segregate the accounting for its op-
"erations in Alberta as distinct from its en-
"tire operations in the three prairie prov-
"inces and no consolidation would be complete
"without the figures for that company. More-
"over I think the result of such a consolidation
"would be misleading.

" Again what benefit would
"be derived from adding the performance of Trimble
"to that of Becker when their operations are so
"dissimilar; not only that we have operators, we
"have marketers at least, who do not carry the
"distribution process to its normal conclusion.

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"We have deliveries to farmer dealers for in-
"stance at refinery depots; the trucker-
"dealer completes the operation and the com-
"plete picture of the operation cannot be had
"in respect of those distributors without hav-
"ing the figures and the financial statements
"from the operator dealers and those we do not
"have.'

Now whether Mr. Cottle is right or wrong, at least he is making himself plain to me.

" I have chosen, there-
"fore, the method of selecting a representative
"and typical marketer and examining that
"marketer's performance in some detail and then
"relating that performance to the performance
"of the other marketers. Now in choosing a
"marketer who is typical it is necessary to
"select one who serves a wide area; a marketer
"who serves only a selected area, for instance
"the marketer Mr. Trimble, is not typical. It
"is also necessary to select a marketer who has
"a normal proportion of volume of various prod-
"ucts. We have at least one marketer who has a
"large proportion of lubricating oil business
"and that marketer for that reason is not typ-
ical.'

That happens to be the Great West Distributors.

MR. COTTLE: No.

MR. FRAWLEY: No, the McColl-Frontenac.

"It seems also essential that the typical

"marketer have a sufficiently large volume to "have a normal operation.

" Now there are several "marketers who fit this classification. The "North Star, for instance, is one. We have not "sufficient detail of the operations of the "North Star in the Province of Alberta to use "that company as a typical marketer. The B.A. " is a typical marketer but unfortunately the "British American was in a state of flux in "connection with its supply during the year "1938 and therefore, a complete picture from "refining to ultimate distribution is not avail- "able for the British American.

" This leaves the Imperial Oil "as the only marketer in respect to which we "have sufficient information to make a detailed "analysis. Imperial has the largest gallonage, "serves in the widest area and has, I believe, "the most typical performance and I say "typical" "in relation to the industry as a whole. There- "fore, I have chosen the Imperial as the example "of marketing as a whole and will deal with that "company in some detail and draw such compar- "isons as I find advisable with the operations "of the other marketers.

"Q. THE CHAIRMAN: You have given reasons " for excluding the North Star and the British " American, what about the other two refiner- " ies, the two local refineries?

"A. I am speaking now, sir, of marketing, and the
" marketing departments of Gas and Oil Prod-
" ucts and Lion Oils are not typical for two
" reasons; one is that they do not serve a
" wide area, at least a sufficiently wide area
" to be typical of the province as a whole and
" secondly, they do not always carry the op-
" erations to its normal, notice I did not say
" proper, I say "normal" conclusion. Both of
" those companies deliver to trucker-dealers and
" much of the ultimate distribution is done by
" people of that kind, whereas the normal op-
" eration is to deliver to customers, either
" to farmers, or to dealers.
"Q. It is just to have it on the record?
"A. Yes.
"Q. Very well?"

And then he began to talk about the Imperial. Now that is our justification for taking Imperial Oil and giving it to the Commission in great detail. We say that the Commission is charged with finding out what it costs to market gasoline in this Province, in Grande Prairie, in Coutts, in Rocky Mountain House, in Provost, all over, to serve the whole Province and we have I think, well Mr. Cottle tells us, that we had perhaps three or four, that we could take and examine in a way, that would help this Commission, the Imperial and the British American, but that was out because of the peculiar state of that company for that year; the North Star, out again because of the fact that their accounts

are not what we wanted, so we took the Imperial, not because we loved the Imperial----

MR. HARVIE: Perhaps, it was a peculiar year for all our companies possibly and it may not be a fair year.

MR. FRAWLEY: Perhaps we should just start all over again.

MR. HARVIE: Start where we did start.

MR. FRAWLEY: So that is the answer, so we meant no affront to anybody and then of course the task would have been superhuman and not paying too much attention to that because what you would have----

THE CHAIRMAN: I think we could pay a good deal of attention to what is superhuman.

MR. FRAWLEY: Yes, that almost seemed to sound as though I was seeking to attack it even although it was superhuman, perhaps I think that must be what I have done, probably, tried something which was superhuman.

Now that is a general review of the manufacturers and now we are going to review in some detail the Imperial's profit performance and make a submission.

Now the Imperial Oil Company's marketing experience is contained in a memorandum which I have prepared showing themarketing spread which simply lists the item, and shows the marketing spread and I think it would be of some value to put down in the record at one place a note of these Exhibits, and state very briefly what they show.

We start with Exhibit "281",

that is a financial statement and shows income and expense in the Province of Alberta with regard to everything sold in the Province of Alberta, wherever it was refined; in other words, the Marvelube came from Sarnia, it was marketed in this Province and a portion of the marketing expense of marketing Marvelube appears in Exhibit "281", just as much as does the cost of marketing Three Star Gasoline.

The next Exhibit is Exhibit "282" and that is the company's form S309, that is a very detailed analysis into the thousand and one sub-divisions of the marketing expense of the company.

The next is Exhibit "300", that is a statement which replaces Schedule 2 of Exhibit "281" and that is merely a revised statement showing in detail the marketing cost totalling $1,025,448.90.

Exhibit "301" is a break-down of Exhibit "300", the last Exhibit, and it is merely to show in a little different form some of these marketing costs, I mean exposing them, getting them out, spreading them out for more ready examination.

The next Exhibit is Exhibit "307" and that is a break-down of one item in Exhibit "300", namely, general administration which totals $89,233.38.

The next Exhibit is "308" that we talked about yesterday, its use in connection with marketing is that it shows the values used in

arriving at jobber's realization.

Exhibit "314", "315", "316" and "317" must be kept in mind in discussing marketing. Those are Mr. Halverson's briefs.

THE CHAIRMAN: What are the numbers of those briefs again.

MR. FRAWLEY: Exhibit "314", "315", "316" and "317".

Exhibit "324" is just a reconciliation of an item in Exhibit "301", general administration, the Exhibit I just read you is something which was required later after the original Exhibit was produced.

Exhibit "325" is the same kind of reconciliation Exhibit, it is a reconciliation of another item, "jobber's expense" in Exhibit "301".

Exhibit "326" is a marketing spread statement but that is now superseded by Exhibit "655".

MR. NOLAN: And the Commission need not look at Exhibit "326".

MR. FRAWLEY: That is true but I am listing all of the Exhibits which in any way bear upon it.

Exhibit "327" shows capital employed in marketing; that also has now been replaced by Exhibit "580".

The next Exhibit is "573"; that is a reconciliation of administration in Exhibit "301".

Exhibit "574" is a reconciliation of jobber's expense in Exhibit "301".

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Exhibit "580" replaces Exhibit "327", that is the capital employed in marketing in this Province and that is $3,944,746.41.

The next Exhibit is "655" and that is a spread statement on marketing; it replaces Exhibit "326" on account of an error; that Exhibit "655" shows tank waggon realization on the one hand and cost at the refinery, using the realizations from the jobbers as that cost and the profit resulting. I am coming back to these Exhibits so I do not think I need to do more now than to list them for the convenience of the Commission.

Exhibit "656", that is an analysis by Mr. Cottle of the tank waggon realization less freight. That was prepared from Exhibits "655" and "281".

The next is Exhibit "657", that is an analysis by Mr. Cottle of refinery costs to the marketing department, plus sales tax, plus packages, that is to show the total cost of the marketing department before sales, that is prepared from Exhibit "655" and "281".

Exhibit "658" is an analysis of the spread, that is, to show the difference between Exhibits "656" and "657".

Exhibit "659" is the next one and that is an analysis of marketing expense, that is, handling, service station and dealer, sales expense and various expenses of that kind. That is prepared from Exhibits "281", "282", "300", "301", "307" and "655".

The next Exhibit is "660",

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That is an analysis of company-owned service station expense, supporting certain items in Exhibit "659".

The next Exhibit is "661", that is an analysis of leased service stations and controlled outlet expense. It is prepared from Exhibit "659".

Exhibit "662" is the next and that is an analysis of idle service stations property and other property expense prepared from Exhibit "659".

MR. COTTLE: And relates to Exhibit "659" rather.

MR. FRAWLEY: Yes, relates to Exhibit "659".

Exhibit "663" is an analysis of distribution of market expense over various products sold and relates to Exhibit "659".

Exhibit "664" is a summary of marketing spread by products and marketing costs by products and relates to and must be read in conjunection with Exhibits "658" and "663".

Exhibit "665" is an analysis of an item in Exhibit "580", the item being other capital employed.

Exhibit "652" is a computation by Mr. Cottle of estimated realization, f.o.b. the Calgary refinery, from sales of Esso, 3-Star and Acto at Calgary, posted tank waggon prices after adjusting for dealer discounts, allowances, freight not included in price, dealer cartage, special allowances.

THE CHAIRMAN: What was the number of that last one?

MR. FRAWLEY: Exhibit "652".

Now I would like to read into the record now two statements which have been prepared, which I think will be useful. They are break-downs, I think if they go into the record in one place or if for that matter be handed in as separate sheets,- their value really is in the form rather than in the substance because the evidence has of course been given many times but it is in statement form, in break-down form and I think it serves the purpose and so I suggest that, as well as being read into the record, that this simply be handed in without Exhibit numbers unless there is some value in that, there is certainly nothing new about them at all.

THE CHAIRMAN: Precisely what is it?

MR. FRAWLEY: The first one of them is called "refinery break-down", to show profit made on all gasoline refined, showing a net profit of .66¢ on every gallon of gasoline that was refined by the Imperial.

THE CHAIRMAN: That is profit where?

MR. FRAWLEY: Net profit of the refinery in other words.

THE CHAIRMAN: In marketing?

MR. FRAWLEY: No, in refining. This is in refining. I think "price", yes, price break-down you might call it, how much they make on what they sell at the refinery door, that is the point.

THE CHAIRMAN: Yes, that is between what it costs them at the other door.

MR. FRAWLEY: That is right.

THE CHAIRMAN: That is at the exit door?

MR. FRAWLEY: That is right.

THE CHAIRMAN: Does that come into your marketing or should it not be in your refining.

MR. FRAWLEY: Well I do not suppose---

THE CHAIRMAN: You left us with refining, saying that one-third of a cent should be picked up, is that part of that picture.

MR. FRAWLEY: Well it doesn't really matter. We thought about that and we think it might as well go in and then be immediately followed by the marketing break-down.

THE CHAIRMAN: Well all right.

MR. FRAWLEY: You see the two really, Mr. Cottle, the two really are combined, the two are really combined. Perhaps if I say a word about it and we will be clear about it, the first statement, the refinery break-down starts off with a figure of 8.66¢. Now that figure 8.66¢ is the weighted average of the prices realized at the refinery door on all gasoline sold to jobbers and treating the marketing department as a jobber; that 8.66¢.

Now what I do then is subtract from that what it costs them to make that gallon of gasoline which they sold for 8.66¢.

THE CHAIRMAN: All right. Now Mr. Frawley, You made your other summary, Dr. Brown's estimate.

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Exhibit "732" and I think you might as well make this Exhibit "733".

MR. FRAWLEY: Will we call it A and B or will we call it "733" and "734", perhaps a separate one, sir.

THE CHAIRMAN: We have lots of numbers left.

MR. FRAWLEY: Yes and we are not going to use them much more.

THE CHAIRMAN: That is your refinery break-down.

MR. FRAWLEY: Yes, or a break-down of refinery price is a better way of expressing it, break-down of refinery price. I will change the heading and have some fresh copies of this run off.

THE CHAIRMAN: All right, that will be Exhibit "733".

(STATEMENT SHOWING BREAK-DOWN OF REFINERY PRICE PRODUCED AND MARKED AS EXHIBIT "733").

MR. FRAWLEY: And the other one is marked "Marketing Department break-down". It could be called a break-down of the posted tank waggon price.

THE CHAIRMAN: That will be Exhibit "734".

(MARKETING DEPARTMENT BREAK-DOWN OR BREAK-DOWN OF POSTED TANK WAGGON PRICE PRODUCED AND MARKED EXHIBIT "734").

MR. FRAWLEY: A break-down of tank waggon price.

Now the break-down of the refinery price, Exhibit "733", the weighted average of

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the prices realized at the refinery door on all gasoline sold to jobbers treating the marketing department as a jobber, 8.66¢, see Exhibit "308" (C) and Exhibit "566".

Paid for crude oil and casinghead, see Exhibit "667", 5.09¢.

Paid for cost of manufacturing, see Exhibit "667", 1.53¢.

Paid for tetraethyl lead and other blending material, see Exhibit "667", 1.20¢.

THE CHAIRMAN: I do not follow how that is part of marketing.

MR. FRAWLEY: No, this is a break-down of the refinery price sir, this 8.66¢ is what the North Star Oil Company, to give you the picture, pays for it at the refinery door or what Mr. Halverson pays for it, treating him as a jobber.

THE CHAIRMAN: I do not suppose it matters what compartment you put it in but I do not understand why this is not all in your refining.

MR. FRAWLEY: Well it is the price, it is the price, because we have been talking cost, cost at the refinery and now we are talking price, although frankly when I left refining and said I had picked up the .35¢, whatever it was, that was price of course. I am of two minds about it and perhaps it should be put, so far as our own mental compartments are concerned, put in refining.

MR. COTTLE: So far as the mental compartments are concerned, Mr. Chairman, it is really a break-down of the component parts of the tank waggon

price, one of which is the refinery door price and in turn that is broken down to its component part so it is really a statement to show what all, each and every one of all the items are which make up the price.

MR. FRAWLEY: Then going from the service station backwards then we might give you Exhibit "734" first because in Exhibit "734" you find one item is 8.66¢ and then I could go to Exhibit "733". I do not know as it matters so long as the Commission is clear about it because that is the all-important thing.

THE CHAIRMAN: You are distinguishing now between cost and price, of course quite properly.

MR. FRAWLEY: Yes, quite properly.

THE CHAIRMAN: They may be a very different thing but are you relating cost to price.

MR. FRAWLEY: Right here I am, right now. Let me finish reading the statement and see what you think about it then when I have read it.

THE CHAIRMAN: Yes.

MR. FRAWLEY: I have just said, paid for crude oil and casinghead, see Exhibit "667" , that is material you see.

MAJOR LIPSETT: 5.09 or 5.08.

MR. FRAWLEY: 5.09.

Paid for cost of manufacturing, see Exhibit "667", 1.53¢.

Paid for tetraethyl lead and other blending material, from Exhibit "667", 1.20¢.

Now you deduct those three

items, which are the total refinery door cost, of 7.82¢, that is Exhibits "667" and "668"; you add 5.09, 1.53, and 1.20 and you get 7.82, and you subtract 7.82¢; in other words the cost, from the 8.66¢, what they got from the North Star Company and Mr. Halverson and it shows that they make a profit of, before income tax, of .34¢, shown as Exhibit "668" or taken from Exhibit "668".

Deduct income tax of .18¢ and there is a net profit at the refinery door of .66¢ and that is----

MR. NOLAN: That is before you take the one-third of a cent away.

MR. FRAWLEY: Yes, because one of my suggestions was something more than .35.

MR. NOLAN: It would not be more than .66, would it.

MR. FRALWLEY: I wonder if it was not.

Then a break-down of the tank waggon price, Exhibit "734", that is treated in the same way. The weighted average of the posted tank waggon price----

MAJOR LIPSETT: Mr. Frawley, excuse me before you pass from that .66, as Mr. Nolan points out you say that there will be a reduction of .69 taken off and still leaving a return of 6%.

MR. FRAWLEY: What did I say: I said yesterday that if we reduced the refinery rate of return---

MR. HARVIE: To 6%.

MR. FRAWLEY: To 6%, the price at the re-

finery door to jobbers could be reduced by the .69¢ and if we reduced the rate of return from what it is to 8%, the refinery door price could be reduced by .52¢ or half a cent and if we reduced it to 10%, the rate of return, the refinery door could be reduced by .35¢.

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MR. COMMISSIONER LIPSETT: Now, take the 6%. I think there must be some error somewhere.

MR. COTTLE: That requires explanation, Mr. Commissioner. The figures which Mr. Frawley has read into the record of cost and profit on Exhibit "733" were arrived at from Exhibit "667" and "668". Now, if you will recall, I prepared those Exhibits, "667" and "668" for the information of the Commission on the sales realization basis. Now, if the price of white goods is decreased by any given amount, whether it is .52 cents or .65 cents, or whatever figures Mr. Frawley has mentioned, it would then be necessary to start all over again in computing what your costs were; because the sales realization method of apportioning costs apportions the cost to the various products in proportion to their value. Now, the reductions which Mr. Frawley has arrived at are the result of taking the total increase in profit, or reduction in profit rather, and applying that to one specific product, namely, gasoline, or rather white goods. And that is why it would appear that a reduction, although it would still leave a profit on the refining operations, would on the basis of the Exhibit Mr. Frawley has just put in, almost wipe out the apparent profit.

MR. COMMISSIONER LIPSETT: It more than wipes it out by 3 cents and still leaves 6% return on the investment.

MR. COTTLE: Well, that is quite true. It would apparently wipe out the .66, but what would happen is if the white goods were reduced in price .69 cents, then you would reapportion the refining expense and the cost of crude to all of the products, with the result the profit on all other products would be reduced and there would still be some profit on white goods. It is just one of those-----

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MR. FRAWLEY: It is one of the vagaries of the sales realization method. That is what it is. It is accepted as sound because it necessarily must be, if you leave them any rate of return as I do, even at the lowest rate, which is 6%, then that 6% must find itself in these refinery figures. It just means a recalculation. Now, .66 cents is the net profit at the refinery on the actual in 1938. Now, tank waggon, Exhibit "734". The weighted average posted tank waggon price at Calgary of Esso, 3 Star and Acto in 1938 - Exhibit "652" - is 16.03.

You recall that the Calgary posted tank waggon was given as 16 cents, but that is the weighted average of the tank waggon of 16 being 3 Star, Acto being less and Esso being more. The price realized at refinery door of Esso, 3 Star, and Acto, and used as marketing department's cost - Exhibit "3080", Exhibit "657" - 8.66. The figure which remains now is 7.37 cents. Therefore, there is an apparent spread at each bulk station between laid down tank car cost and posted tank waggon price of 7.37 cents. That is an important figure, I think, Mr. Chairman. We start off with an apparent spread at each bulk station of 7.37 cents, the difference between what Mr. Halverson pays and what Mr. Halverson gets, treating Mr. Halverson as buying it at the refinery at the same price as other jobbers. Then we begin to dissect the 7.37 cents. We have gone to a great deal of pains in breakdown and we have, we think, every single item which goes to make up the 7.37 cents, and here they are:

Paid sales tax to Dominion Government - Exhibit "657" -	.71
Paid for non-returnable tin containers used in marketing gasoline - Exhibit "657" -	.02
Cost of gasoline evaporated or lost in handling at 7.66 cts per gallon - Exhibit "657" -	.10
Paid 100% discounts to dealers - Exhibit "652" 315 p.10 -	.66
Paid competitive allowances to dealers in special so-called subnormal areas south of Red Deer - Exhibit "315" p.14, Exhibit "652" -	.25
Paid freight from refinery not included in tank waggon price destination, i. e. chiefly at points south of Champion - Exhibit "315" p. 12, Exhibit "652" -	.13
Paid cartage to commission agents for deliveries to dealers at non-agency points - Exhibit "654" -	.22
Paid special discounts to 51 dealers - Exhibit "315" P. 15, Exhibit "652" -	.04
Paid special discounts to non-agency dealers, so-called inland dealers. - Exhibit "315" P.16, Exhibits "654", "652" -	.01
Paid railway switching charges at Calgary - Exhibits "654" "652" -	.01
Paid cartage and freight in excess of tank car rates, e. g. inter-station transfers and l.c.l. movements	.16
Items paid and unaccounted for or inaccurately estimated, being differences between 14.55 on Exhibit "652" and 14.49 on Exhibit "656" -	.06

The total of all the items which I have read, commencing with the Dominion Sales tax is 2.37 cents. That is the first deduction that must be made from the 7.37 cents, and that leaves an actual spread on Calgary refinery gasoline before deducting marketing expense, except transportation and price allowances as listed above, of 5 cents. That is the actual spread. Add

the additonal spread realized on gasoline from other refineries sold in Alberta of .12 cents, and we have an actual spread on all the gasoline sold in Alberta of 5.12 cents.

MR. NOLAN: May I follow that? An additional spread on what?

MR. FRAWLEY: You add the additional spread realized on gasoline from other refineries sold in Alberta.

MR. NOLAN: What does that mean?

MR. FRAWLEY: You brought in some gasoline from outside.

MR. COTTLE: Aviation gasoline.

MR. NOLAN: Aviation gasoline. Just excuse me, Mr. Chairman, I just want to follow this.

MR. FRAWLEY: Now, we have that actual spread on gasoline sold in Alberta of 5.12 cents, and we begin to make deductions from that. You deduct-----

THE CHAIRMAN: Just what do you mean by "spread"?

MR. FRAWLEY: That is the difference between what he gets and what he pays.

He now has 5.12 cents. Mr. Halverson at this stage now has 5.12 cents to do everything with. Pay for his marketing expense and his profits and everything. You see, what I have done up to now is, we first start off with the apparent gross spread of 7.37 cents, which is just merely the difference between the average of all the tank waggons. It is the money that comes in to Mr. Halverson's hands.

MR. COTTLE: No, it is the posted tank waggon price. The money does not come into his hands.

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MR. FRAWLEY: No, the posted tank waggon price. I am glad Mr. Cottle mentioned that.

MR. PLOTKINS: Is that the posted tank waggon price, the actual weighted average of the actual prices for that year or the lowest price?

MR. FRAWLEY: It is the weighted average of the posted tank waggon prices for Acto, 3 Star and Esso.

MR. PLOTKINS: Taking into consideration the drop in price?

MR. FRAWLEY: It is the weighted average. It is the posted prices. Now, there are many deductions; for instance, the 1 cent to the 100% dealer. We have taken the spread between what Mr. Halverson published as his prices and what he paid to Mr. Moore at the refinery door and that is 7.37 cents. But the first deductions that must come from that are the deductions which really never get into Mr. Halverson's pocket, but for clarity's sake we list them all as though they were deductions paid out. For instance, Mr. Halverson never gets the 1 cent he gives as a discount to his 100% dealer. But I think for simplicity's sake this is the ideal way of setting it up. We regard that as a payment by Mr. Halverson to his 100% dealers of 1 cent. And the gasoline, for instance, that he loses in evaporation, he never gets that, or the sales tax. Well, as I say, it is purely for clarity and I think it does a pretty good job of showing what happens his gross spread. The deductions that were made from Mr. Halverson's gross spread are just such things as sales tax, freight to refinery that was not included in tank waggon price at destination, because you remember, Mr. Chairman, the whole Imperial set-up is that the posted tank waggon price is

Calgary plus freight. But they had to depart from that in the southern part of the Province. And we called that paid freight from refinery not included in tank waggon price at destination, chiefly south of Champion. That amounts, for example, to .13 cents per gallon. Paid cartage to commission agents for deliveries to dealers, we regard that as a payment. The dealer delivers to a neighbouring town a gallon of gasoline and we say Mr. Halverson pays him .22 cents. Now I think we have arrived at the stage where he had an actual spread on all gasoline sold in Alberta, after making these various miscellaneous deductions, which we will discuss lgter on in our marketing discussions, of 5.12 cents. Now, the next figure is a very important one. We now deduct 3.43 cents from the 5.12. Now, what is the 3.43 cents? It is $731,727.85, being 71.62% of $1,021,694.80, which is the total expenditure incurred in marketing all products sold in Alberta in 1938, such as main warehouses, bulk station, barrel, service station, dealer, salesmen, advertising, office, general administration expenses. That is shown in Exhibit "659".

MR. NOLAN: It is the marketing expense?

MR. FRAWLEY: Yes. Exhibit "659".

MR. NOALN: It is a roundabout way of saying so.

MR. FRAWLEY: This is a roundabout Exhibit, but it comes home finally with something. This $1,021,694.80 is the total of Mr. Halverson's marketing expense in the year 1938. We take 71.62% of that. Now, that 71.62% is the relation between the sales realization value of the gasoline and the sales realization value of all products sold. We cannot take the whole $1,021,694.80 because, of

course, there is all of Mr. Halverson's expenses there, the expense of marketing his batteries and his lubricating oils and his tires and all that sort of thing. But we go to Exhibit "664" and we find $731,727.85, the figure I say that we took after we broke up the cost per gallon, we find that in Exhibit "664", being the Imperial's own estimate, because it is an estimate of the marketing cost of marketing gasoline, all gasoline. It is a very simple thing to turn it into Imperial gallons, cents per Imperial gallon. 3.43 cents. We deduct that 3.43 cents.

THE CHAIRMAN: What do you say about sales realization?

MR. FRAWLEY: It is a figure that is arrived at on the sales realization method. In other words, I say to you, Mr. Chairman, it costs the Imperial Oil $731,727.85 to market gasoline and you say to me "How do you know that? How do you know what it costs them to market gasoline?" Because in this same Exhibit "664" I find it costs them $38,846.63 to market refined oil. I find it costs them $75,356.90 to market Marvelube. I find it costs them $2,358.44 to market wax,and so on. You say "How do they know that?" The answer is that they know that by applying the sales realization method and distributing the costs, and we take that figure of $731,727.85, and that is the Imperial's own figure----

THE CHAIRMAN: I have got up to the point where - I am educated to the point that I can see where if you value inventories you have to have some method of so doing. But you are applying it now to something different.

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MR. FRAWLEY: I may say I have struggled almost to the point of fisticuffs with Mr. Cottle to break down this 3.43 cents. You see,a person who has been breaking down to-----

THE CHAIRMAN: We will all break down soon.

MR. FRAWLEY: Yes. A person who is getting down to .01 cents was not very satisfied when Mr. Cottle presented him with a figure of 3.43 cents, and says "That is all I can do for you." That is where Mr. Cottle and I battled. He, of course, won out. So we left it at 3.43 cents. But I said "Give that to me in decimal points. Break it down for me, and tell me what it costs them, what the bulk station cost on gasoline was; what the barrel cost was on gasoline; what the advertising cost was on gasoline, and salesmen, and general administration expenses and all those things." I wanted all those on three or four more sheets. But I got down to 3.43, and that is as far as I could go. "That is the sales realization and that is all I can give you."

MR. COMMISSIONER LIPSETT: Does it come down to this that gasoline represented 71.62% of their total sales, and in consequence you charge 71.62% of their total expenditure?

MR. FRAWLEY: That is right.

MR. COMMISSIONER LIPSETT: And it comes to 3.43 cents?

MR. COTTLE: Yes, that is all there is to it, Sir.

MR. FRAWLEY: That is why we are left with that huge figure of 3.43 cents. I am bold enough to want to inquire into Mr. Halverson's 3.43 cents. How is that made up? How many cents or decimals of a cent is he

wasting on advertising, or spending legitimately? How much parts of a cent is he spending on his salesmen of gasoline? Are there too many salesmen? Are they spending too much time selling gasoline as against Marvelube? And so on and so on. But I cannot. I have just to take it at 3.43 cents and like it, as I understand it. Now, just to complete this for a moment. I deduct the 3.43 cents from the 5.12 and I get profit before income tax of 1.69 cents. Deduct income tax, .37 cents, and I am left with the very handsome net profit of 1.32 cents per gallon. My friend probably does not like me editing it by using the word "handsome", but let him look at his Number 9's all over Canada sometime when he is alone and he will find whether it is handsome or not.

THE CHAIRMAN: You are left with what?

MR. FRAWLEY: A net profit of 1.32 cents per gallon on the gasoline sold all over Alberta. That is only the marketing profit. Do not forget the .66 cents to add to that, because it is all one group of shareholders. So that if you want to add the two together - I can almost do that - 1.32 and .66 is 1.98 cents per gallon, on every gallon of gasoline that was sold, or just about 2 cents a gallon.

THE CHAIRMAN: Now, what is that again?

MR. FRAWLEY: Add .66 that is shown on Exhibit "733", that is the refining profit per gallon.

THE CHAIRMAN: And that gives you a total of what?

MR. FRAWLEY: 1.98 cents per gallon net profit.

MR. NOLAN: Now, Mr. Chairman, before we go

too far with this matter about what this very handsome net profit might be, we will have to convert that into present prices of gasoline so as we know what the actual net profit might be on the present price structure. Now, as I understood Mr. Cottle in his evidence, which is to be found in Volume 130 at page 14,463, he says:

" The questions you are now asking are displayed in the
" gasoline section of Exhibit "658" where you will
" observe that the marketing spread between cost and
" value of the gasoline originating from the Calgary
" refinery is an even 5 cents, being the difference
" between the realization of 14.49 and the cost of 9.49".

But the fact is, Mr. Chairman, and Mr. Commissioner, that since the beginning of this year, our realizations have been reduced by $141,000.00. Now, Mr. Cottle's Exhibit "657", to which he refers on page 14,461, shows in detail how he arrived at the realization ex Calgary refinery of 14.49 cents, which was based on gasoline sales of 20,477,793 gallons. Now, the reduction in realizations of $141,000.00, on 20,477,893 gallons, is approximately .67 cents per gallon. Therefore, it follows that the gasoline realizations referred to in Mr. Cottle's Exhibit "657" or the 14.49 ex Calgary, is on the basis of those prices being reduced .67 cents per gallon, 13.80 cents net as compared to the prices to our jobbers ex Calgary refinery of 9.20 cents on white gasoline, 10 cents on "Q" gasoline and 11 cents on Esso gasoline. So that the marketing spread after taking into consideration the reduction in realization of .67 cents is only 4.33 cents per gallon over the cost of 9.49 cents, to which Mr. Cottle refers. And the

importance of this is that there was a discussion earlier in which Mr. Commissioner Lipsett was asking for a comparison between the spreads which were, he thought, around 6½ or 7 cents, in the spreads that were enjoyed by the Texas Company. But when we get down to the actual figure I think it is fair to say that our spread now is 4.33 cents per gallon over the cost of 9.49 cents to which Mr. Cottle refers.

MR. FRAWLEY: Would you compare those figures just to have me understand my own Exhibits. You substitute what figure for the 5.12 actual spread?

THE CHAIRMAN: Well, supposing you get together about it now and you can give us the results, perhaps, more satisfactorily after lunch.

MR. NOLAN: There is no dispute at all, My Lord.

MR. FRAWLEY: No. Mr. Cottle's Exhibit was prepared last July, I think, and Mr. Halverson's cut was in October.

(At this stage the Hearing was adjourned until 2:00 P. M.)

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2.00 P. M. Session.

MR. FRAWLEY: Mr. Chairman, we were discussing the two Exhibits "733" and "734" and I have placed before you copies of those Exhibits. Incidentally it is the original which I gave to Major Lipsett because there were not many copies made, Mr. Chairman.

We had just been talking about that and Mr. Nolan raises a question that these figures are not now, are not correct up to date because of the changes which were made and that is quite so but rather than endeavor to set down by way of Amendment the changes, it has been suggested that Mr. Cottle shall reconstruct; this shall stand as it is quite correct and in my submission valuable and it is quite correct in what it purports to show but that Mr. Cottle might, not necessarily while we are here, but that Mr. Cottle might prepare for you and hand to you, just how these various figures are going to be affected by the reductions which were made on the 24th of July and the 25th of October or particularly the 25th of October or both of those, Mr. Cottle?

MR. COTTLE: Yes, both.

MR. FRAWLEY: The 24th of July and the 25th of October.

THE CHAIRMAN: What does that involve in working time, Mr. Cottle, roughly?

MR. COTTLE: Oh, about a half an hour.

THE CHAIRMAN: Oh, well.

MR. COTTLE: Then the typing of the Exhibit which involves preparing another Exhibit "652", Exhibit "652" speaks of prices before July 24th so it also will affect the Exhibit "652" and another Exhibit similar to the ones which Mr. Frawley has.

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THE CHAIRMAN: I prefer to have it, Mr. Frawley.

MR. FRAWLEY: I did not know how much labor it involved.

THE CHAIRMAN: While we are sitting so that any observations that Mr. Nolan or anyone else may have to make concerning it may be made at the time when he has the document in front of him.

MR. FRAWLEY: Yes, it was because Mr. Nolan himself suggested he was not concerned with seeing it again, he understood thoroughly what changes it would mean and he thought Mr. Cottle could do it later but now if there be any value, if Mr. Nolan has any desire at all to look at it or comment on it after it is completed perhaps it should be prepared now.

THE CHAIRMAN: If he is addressing himself to the subject.

MR. NOLAN: It takes such a short time to prepare, I thought it meant a longer calculation but apparently it does not so that we might perhaps as well have it.

THE CHAIRMAN: We can probably have it tomorrow, Mr. Cottle?

MR. COTTLE: Oh, yes.

MAJOR LIPSETT: It will affect nothing except the $145,000.00, Mr. Nolan?

MR. NOLAN: Oh, yes, it does sir.

MR. COTTLE: No, that is really all.

MR. NOLAN: Does it affect anything other than that you ask?

MAJOR LIPSETT: Yes.

MR. NOLAN: No, but the reflection of that is shown in many of these items in the calculation which Mr. Cottle

has already made to which I take no exception because on the basis on which it has been prepared I think it is perfectly all right.

MR. COTTLE: It finally will come down to a figure instead of 1.32 cents of profit on Exhibit "734", it will come down to a figure of a profit of .80 cents.

THE CHAIRMAN: .80?

MR. COTTLE: Yes.

MR. FRAWLEY: Instead of 1.32?

MR. COTTLE: Yes.

MR. FRAWLEY: And then .66, there were no changes in jobber's prices?

MR. COTTLE: No.

MR. FRAWLEY: So the .66 stands.

MR. COTTLE: There is one other point perhaps for Exhibit "733". I can reflect the anticipated 2½ cents change in the cost of crude oil if that would be helpful, to fit in with the argument.

MR. FRAWLEY: You see 7.33 shows the certain item for cost say for crude oil and casing-head, 5.96 cents and that would be slightly changed.

THE CHAIRMAN: Yes, I think I see.

MR. COTTLE: I will do both then.

MR. FRAWLEY: And then I may later have some comment to make. Perhaps I should just say now, I said this morning that the item 3.43 cents which you will find on the second page of Exhibit "734", that that looked like a big amount, an exceedingly large amount to not have a breakdown for, a further elaboration of but of course the fact is that we can take Exhibit "659" which has the total

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$1,021,694.80 and we can look at that and see what is in there. We just cannot get the figure in per gallon of white goods but we can criticize anything in the $1,021,694.80 that we think warrants criticism so we are not hopeless in our examination of the 3.43 cents which is Mr. Halverson's marketing spread really; the money he spends, I mean it is the money he spends to market a gallon of gasoline, that is about the way to look at it and then the other amount, the breakdown of the 2.37 cents which we did so elaborately, is, I think, a very useful breakdown, one can look at once and see where this money is going to, in paying competitive allowances, freight not included in tank wagon price, special discounts to dealers, special price concessions and so on and I will pass from that now and will probably have to come back to that later.

Now let me file now a document, the case for Alberta which came up during the time that Mr. Brownlee was here, you will remember, Mr. Chairman.

MR. CHAIRMAN: How do you feel about this, for the purposes of reducing the price of white goods, do you feel that the cost realization basis is satisfactory.

MR. FRAWLEY: Well I am, of course, in this position ---

THE CHAIRMAN: I mean there may be no better way but because something is not better, you may have no better bridge, but is your bridge safe, is another question?

MR. FRAWLEY: Well, it is even more, it is even this, no other bridge at all, there has been no other bridge at all suggested.

THE CHAIRMAN: Yes.

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MR. FRAWLEY: We just cannot find out, let us just analyze it, that is just, you are just on the point which was troubling me.

THE CHAIRMAN: I see the force, Mr. Frawley, that if a person has to make out an inventory, he has to have some method of approach and at the moment it strikes me as a sensible and satisfactory approach and certainly in the absence of a better way but now we are considering another question entirely and I suppose your argument will lead to the suggestion that there be a reduction in prices somewhere.

MR. FRAWLEY: In the marketing, in the marketing. Well of course that is, let me just face that now, the company is now selling gasoline on a return basis, a rate of return based on 7.59%; that is a long way from anybody's 13%. Frankly it is not, it is not the 10% we had when this Commission started, 10⅓%, in fact it is the figure that all my notes were based upon, and I had to revise them, it was 10½%, 12.6 in the refining, 10⅓% in the marketing but of course the marketing has gone down to 7.59%. Now if I make the same argument to you as I intend to make, that the marketing should go down to a range somewhere in between 6 and 10 then, of course, you have a small, I agree, a small reduction to make in marketing if you accept six and no reduction at all if you take 8, and no reduction at all if you take 10; that is the position in a nutshell and I will discuss that in more detail when I come to it.

THE CHAIRMAN: Yes.

MR. FRAWLEY: So that frankly I am not, in the nature of things, having had to accept the payments, that is the point, having had to accept the marketing expense

picture completely because Dr. Frey and Dr. Brown have not taken exception to these marketing expenses, for the purposes of price reduction----

THE CHAIRMAN: Mind you, I suppose you say, to be consistent that we need not worry about that that we can say "it is too high" just the same.

MR. FRAWLEY: Yes, that is quite true. You can look at these figures yourselves and say, now you may be faced with the same difficulty there, it just makes me realize how really naked my experts have left me. I suppose I must say "my experts" as other people would call them, the distinguished gentlemen that came to give evidence before the Commission but the point you raise, that is, are we to take the sales realization method of arriving at the portion of the marketing expense to allocate to gasoline.

THE CHAIRMAN: Assuming that you were going to make the argument that the price which this Commission should recommend, that the Commission should recommend that the price of gasoline should come down.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Anticipating that suggestion.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Which I gather will be made, from what you have already said.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Well now, I can see that there can be no better way for making up inventories but when you are going to arbitrarily say the price of gasoline should come down, then can you apply a method which at most is an arbitrary allocation.

MR. FRAWLEY: Well let me put it is this way, when I say that the price of gasoline must come down, I must do either one of two things, I must attack the money spent and say "too much money has been spent" or I must attack the result, the final result figure, the profit figure and say "too much money has been made", "too much profit has been made".

THE CHAIRMAN: Yes.

MR. FRAWLEY: Now going for a moment to the criticism that too much money has been spent, that they are not warranted in spending 3.43 cents or for that matter they are not warranted in spending some 2.37 cents, then it seems to me we are, it is so helpless to know how to criticize the actual expenditures made which are all lumped together and not even for the company's purposes is there any segregation or any division, any dividing up of the $1,021,000.00 gross marketing expenses, and let us take one of them, just to try to understand it, sales expense, expense for supervisors and salesmen's salaries and travelling expenses, advertising expenses and identification signs, just those items, they total $138,907.66. Mr. Cottle says, accepting the sales realization method, using the sales realization method, 73, 76, 71.62% of the $138,000.00, I am going to assume from now on in my calculations, was spend in supervising and salaries and travelling about on gasoline business, that is what they say. Now how in the world does anybody know whether that is a sound figure or not?

THE CHAIRMAN: That is just it.

MR. FRAWLEY: Perhaps the salesmen, perhaps all of his time and effort and the zeal has been spent in

selling Marvelube and that . has nothing at all to do with what we are talking about at the moment.

THE CHAIRMAN: That is my point. I can understand perfectly if you said; well the sales realization method, that is the best method we had, and obviously they are making too much money. It is unreasonable. We are going to make some reduction on the whole, on everything. I could follow that reasoning.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And yet when you are arbitrarily saying, "We are going to leave those things", such as Marvelube which you spoke about, where they are, we are not going to worry about tires and radios ---

MR. FRAWLEY: Batteries.

THE CHAIRMAN: Batteries, but we are going to cut gasoline. At least that is your submission, and I wonder if the sales realization method applies the same, will serve the same useful purpose, I do not know.

MR. FRAWLEY: No, and we just there, that is all, there is nothing else suggested, there is no other way you can suggest. They say it is either that or nothing. It is a secret then. We just do not know how much money we really spent in supervising and selling, in selling and supervising the sale of gasoline.

THE CHAIRMAN: And I suppose that is literally true.

MR. FRAWLEY: Because a salesman comes on the premises ----

THE CHAIRMAN: Where you are selling two or three articles.

MR. FRAWLEY: He comes on the premises and he spends a portion of his time discussing Marvelube, he spends a little time discussing Three Star gasoline. Who is to say how much of that day or hour was spent by that salesman in the promotion of Three Star as against Marvelube.

THE CHAIRMAN: Now quite so. It must be easy to say that man is getting too much money for the work he is doing, for the hours in the day and the days in the month he works, that is an approach which one could understand.

MR. FRAWLEY: Yes.

THE CHAIRMAN: But to say, without any knowledge of it, that he is spending too much time on gasoline ---

MR. FRAWLEY: Yes, I see the point.

THE CHAIRMAN: As against Marvelube or anything else.

MR. FRAWLEY: Yes, that is something you can see.

THE CHAIRMAN: That is at the moment beyond my comprehension.

MR. FRAWLEY: Yes, but even more, I understand at once what you mean but he might say for instance that the supervisor was getting $500.00 a month, and we could say, "No, he should not be getting $500.00 a month, he should only be getting $300.00 a month, and we will clip it off.", but to say that he is pushing more of Marvelube or more of gasoline is a different question.

THE CHAIRMAN: Yes, how can we do it.

MR. FRAWLEY: That is as I understand it the impossible.

MR. COTTLE: Even if he did that and pushed more of Marvelube, you are still going to leave your profits

where they were and your profits on the rate of return is the method of determining whether the profits are too high or too low so it doesn't matter whether you push it on Marvelube or not.

MR. FRAWLEY: No, your profit is not the same if you reject in your expense items ---

THE CHAIRMAN: Is it important, Mr. Cottle, from the standpoint of reasoning, while it may not matter in the net result of the company, but is it not of great importance when the submission is made that the price of gasoline of all kinds should go down and the submission does not cover, as I understand it, all products.

MR. COTTLE: Well that just begs the question, it doesn't matter very much to say that the profit on gasoline is 1.3280 or 5.6 per gallon of gasoline because in itself that figure does not mean anything. The only thing that means anything is how many dollars this per gallon figure amounts to, how many additional dollars the profit on your lubes and greases and tires and batteries amount to and then how much your total profit amounts to in relation to your capital employed.

THE CHAIRMAN: That is right and I may not be understanding but if Counsel makes the submission, gasoline should go down, doesn't it make a tremendous difference, if not to the company, to the users of Marvelube and tires and radios and all things that go with them.

MR. COTTLE: Oh, yes, it may do so, sir, from that point of view it may but there you are concerned with the propriety of having a high price for one product and a low price for the other and you might say the equities

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of the consumers of tires as against the consumers of gasoline, I do not know what approach you would have to that problem and I do not know of any method that would help you at all, because even if we knew how much time the salesmen put in selling Marvelube and how much depreciation on your trucks and wear and tear on your tires was involved in the handling of lubricating oil, supposing we knew it all to a nicety, just exactly what it cost to market and sell Marvelube, I do not think it would help a bit because you still could not escape the fact that Marvelube and other lubricating oils are properly handled in connection with gasoline and then if we found that Marvelube was selling at a loss on that basis, knowing the exact cost, there is still the nice question of determining how much of the effort that went into the selling of Marvelube assisted in the sale of gasoline, so that regardless of what your final figure is on Marvelube or tires or batteries, you still cannot divorce it for the purposes of saying that that is a proper price for that particular product.

THE CHAIRMAN: Then how can you ever say that the price of gasoline is too high or too low.

MR. COTTLE: Only on the basis of accepting some definite price for the other products.

THE CHAIRMAN: Yes.

MR. COTTLE: And that is an arbitrary system.

THE CHAIRMAN: Quite, and that is the point.

MR. FRAWLEY: Just as arbitrary as the sales realization method is, the sales realization method says,

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"Give me one price and I will give you the other".

MR. HARVIE: And that applies to the companies in the business, that have different ratios of sales as between gasoline and lubricating oils; the McColl-Frontenac, a large percentage on their business is lubricating oils but if any reduction is taken that applies to gasoline alone,,it is not going to be equitable as between companies.

THE CHAIRMAN: Yes, yet ---

MR. FRAWLEY: Of course what I am anxious to find is the fair proportion of the total expense, in view of the fact that the companies have not kept it and as I understand, could not keep it separate. Then the objective is to endeavor to find a fair proportion of that expense and no more, to be allocated against gasoline, all other products remaining as they are.

Now, of course, it is difficult but it is the whole business of the joint sale, the joint sale, under the same roof, not only the joint manufacture but when we come into the sale it is joint, in the warehouse it is joint, I mean the company's warehouse, they operate as all joint, in the bulk outlet it is joint; the agent is one day filling and selling lubricating oils in drums and the next day and the next hour and the next minute gasoline, so it is necessarily involved.

THE CHAIRMAN: There may be nothing in it at all but supposing, are you not really saying, putting it this way, are you not really saying, "the profit of this company is too great on its total operation, it is providing them with a return, having regard to the nature of the business, an extra

one which they should not continue to enjoy, therefore, they should make less money in their total operation, is that not your first step and it is only after that you are saying, "Now how will we distribute this saving we are going to fix upon them"?

MR. FRAWLEY: No, I think there are two distinct approaches, one is that the profit is too much or too little or just right.

THE CHAIRMAN: Yes.

MR. FRAWLEY: But how is the profit made up, the profit is made up by deducting one figure from another, deducting expenses from the gross realization. Now if, assuming with me for the moment that that expense is too much, it is the expense but it is too much, then of course ---

THE CHAIRMAN: The total expense?

MR. FRAWLEY: Yes, the total expense and then the proportion, if you reduce the expense, you necessarily increase the profit, in other words, my suggestion is simply this, that if it should be, if there is a wasteful expenditure here, then keep on making it if you like, but take it out of your profit, take it out of your shareholders, take it out of something else but do not take it out of the fair price of gasoline. Now that is what it amounts to, so there are two approaches, an attack on the expenditures which were made of course, and all the vouchers are there, showing all the expenditures, an attack on the expenditures being wasteful and unnecessarily high and secondly, an attack on the profits, and all I am saying ---

THE CHAIRMAN: That is the over-all profit?

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MR. FRAWLEY: Yes, the over-all profit.

THE CHAIRMAN: Yes, and what I am trying to get at is how you allocate your savings, call it what you will, to gasoline.

MR. FRAWLEY: Well but then you see if you only had an over-all profit, if you can only say there is too much money being made in the whole marketing operation, if that is all you know, you cannot apply it, you cannot give any effect to that finding unless, as Mr. Cottle says ---

THE CHAIRMAN: Surely you can say, "Now you cannot make that much money. You have to make a million dollars less next year. We are going to see to it that you do."

MR. FRAWLEY: Yes.

THE CHAIRMAN: Assuming willingness and power.

MR. FRAWLEY: Yes.

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THE CHAIRMAN: Now you reflect that in your sales price to the public, spread over the various articles that you sell.

MR. FRAWLEY: You have to pick and choose, right there, Mr. Chairman. The first thing you have to do is to throw out tires and say, for any reason you like, that you do not think that is within the purview of this Commission. You cannot say that because I think even tires are. It is pretty wide. But we throw out tires and lubricating oils and we get down to what the people of Alberta are interested in, the consumption of their own natural resource in their own automobiles. And that is why I high-light gasoline. We have to do that. We start right there. You throw that all out and you are left with gasoline and then you say "Our desire is to allocate upon gasoline"- and such a finding would be tantamount to a finding - there is a difficulty to it I can appreciate that - but that would be tantamount to finding that all is well in the sale of lubricating oils. Now we do not know. I am not going to say it is. But should I not say it is, I am not seeking to be critical.

MR. COTTLE: There is another reason, of course, for eliminating lubricating oils from any participation in price reduction. Lubricating oils are sold by other competitors who are not exactly engaged in the sale of gasoline. If you affect the price of lubricating oil you are naturally affecting those people who are not engaged in gasoline at all.

MR. FRAWLEY: Like Eaton's store.

MR. COTTLE: Yes, Eaton's store.

MR. HARVIE: You are holding an

umbrella over them.

THE CHAIRMAN: Why should not we affect them.

MR. COTTLE: Perhaps you should affect them. But you are getting out of the general scheme of the Inquiry.

MR.HARVIE: Not at all.

MR. COTTLE: Just a moment, Mr. Harvie. Just the ordinary wholesaler, not a dealer in petroleum products generally, but any specialty people.

MR. COMMISSIONER LIPSETT:: But supposing you said the expenses charged were say $100,000.00 too high. On Mr. Frawley's basis only 72% should be taken off gasoline. If you take the whole $100,000.00 off gasoline, you may be putting the people who are only engaged in selling gasoline in a very unfavourable position and you may be leaving the people that deal in lubricants and so on to enjoy what apparently is a favoured market.

MR. COTTLE: That is assuming 72% of the total expense is properly allocable to gasoline. Now you cannot make that assumption.

MR. COMMISSIONER LIPSETT: I think that is Mr. Frawley's argument.

MR. COTTLE: That is the basis of that apportionment but that does not tell you how much the cost of marketing gasoline is. I emphasized that just as strongly as I knew when I analyzed the exhibit. It is purely an arbitrary method of assigning a reasonable proportion of the marketing expense to gasoline. We just do not know whether that is proper

or not.

MR. COMMISSIONER LIPSETT: I see the objection to it but once you take it must you not only take 72% off your existing marketing expense if you are applying it to gasoline and not the whole lot?

MR. COTTLE: And leaving the other products as profitable as they were? The result of that would be your profits would not be reduced in that case by the extent of the reduction you want to make.

MR. HARVIE: And take 28% off the other products.

MR. COTTLE: Unless you reduce the price of other products and projected the reduced earnings at a certain amount of money. Now you can do it several ways. You can take it all off lubricating oils or take it all off tires and batteries, or off any products, gasoline or distillate or any of the motor fuels. Or you can take some off one product and some off another.

THE CHAIRMAN: Why not take it off all products in accordance with this same me hod.

MR. COTTLE: Well you can, but it is doing it just as arbitrarily as taking it all off one.

THE CHAIRMAN: Yes, but are you not, necessarily - if your method be worth while at all and it would appear to be the best known method - are you not doing it more equitably, and my friend says logically, if you take it off all in accordance with - that is assuming there were anything that is to be taken off - in accordance with the particular method that we put forward as being the best available.

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MR. COTTLE: I do not think there is any question of equity comes into that at all. The equity.....

THE CHAIRMAN: Not as against the Companies perhaps, but surely there are other people going to be affected. The man who is buying Marvelube and all the other things, is he not interested? He says "If there is going to be a saving as against this company and the public, as part of the public, not interested in gasoline," but the fellow with the stationary engine might be more interested in Marvelube. I do not know. That may be just a silly statement.

MR. HARVIE: A steam engine.

THE CHAIRMAN: Yes, he is running a steam engine.He says "I am one of the public and I want a share in this in my proper proportion." Now why cannot he be heard to say "Well, if you are going to apply the sales realization method, surely I come in on this."

MR. FRAWLEY: Then we have to turn around and take gasoline and then find out how it works out, using another percentage figure for Marvelube. I suppose you have to take a fresh starting point every time you endeavour to apply it against any particular product. Is that not so?

THE CHAIRMAN: I may be wrong about this, but at the end of every year, I take it, that in the course of their normal business all these companies take inventories and they put a price on every product that they have in their warehouse, by the sales realization method.

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MR. COTTLE: No sir. Not the marketing compaies. The marketing companies would put inventories on greases and wax and candles and things that they do not manufacture themselves. And the price is what they paid for them. Most of these things are really outside purchases. The only time the sales realization method is used for inventories is in the case of refineries manufacturing joint products. Marketing companies do not use the sales realization method, as such, at all. As a matter of fact it is quite improper to call this method of apportionment of marketing costs the sales realization method. It is just an arbitrary allocation. True, it uses value as a basis, but to use the term sales realization method, that is usually applied to extractive industries in costing their products, and not by marketing companies at all.

THE CHAIRMAN: The refiner says "I cannot tell you what it costs me to get any particular thing out of a barrel of crude." When you are using values as your basis haven't you got practically, if not in fact, the same method?

MR. COTTLE: You use value as a basis of apportionment, but not really for the same reason. It is the same as a grocery store. A grocer wants to find out how much his pork and beans cost him to market as compared with his biscuits, and things of that kind. It is really in the same category.

THE CHAIRMAN: I have been somewhat in a maze about it. I do not understand how one can say, if a company has excess profits, whether you seek a drawback or not, you ar least say they are not going to

get so much in the future, if we can prevent it. I do not just understand on what principle or by what reasoning you say it has 30 customers, and 20 of these are to be advantaged by this lack of profit that he can no longer enjoy, and ten are not.

MR. FRAWLEY: Of course, I follow, - take Mr.Cottle's example of biscuits and canned goods. Supposing that the Government or some body became interested in the alleged excessive spread in the marketing of biscuits and they went into the grocer and they said "Now we are going to make an examination of your prices to see how much money you are making from a pound of biscuits." Well, he would say "I certainly cannot tell you." You see there is certainly a similarity. He says "I cannot tell you at all. I am selling everything in this store." So they arbitrarily say "Well, what were the gross sales' value of your canned goods and your biscuits and everything else last year?" So much. All right. The biscuits were 25% of the sales value of everything you sold in this store last year. Then right there, up to that point it is a fact. You are dealing with realistic things, 25% of the gross income was realized from the sale of biscuits. They take 25% and they say"we are going to say that 25% of your wages and 25% of your taxes and your light bill and everything else was used in selling your biscuits." That is arbitrary. How can you say that? It may be that the biscuits sold themselves. People came in and took them off the shelf. I mean it becomes so speculative that perhaps it is not very helpful. I certainly appreciate the arbitrariness of setting

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it up. Mr. Cottle does too. That is his point. But it s is something that you just start with. Is that not so?

MR. COTTLE: That is quite so. And the other point I make is that the sales realization method does not help you very much. If you are going to do that you see really what you are doing is lowering all the prices proportionately. You are doing that and nothing more than that.

THE CHAIRMAN: Yes.

MR. COTTLE: If that is an arbitrary lowering of prices of all products in proportion, that is the arbitrary decision you will come to. If it is proper to ignore the miscellaneous products which are really after all this miscellaneous revenue. I mean it is so small in relation to the total business of this Company that is engaged primarily in selling motor fuel that you can look at it quite nicely as miscellaneous revenue which the Company is very fortunate in having, because they enable the Company to market gasoline more cheaply. If they did not have these revenues they would have to get a higher price for the gasoline to make up the loss of revenue to give them the rate of return on their investment. I can quite readily bring myself to the opinion that they should be treated as miscellaneous revenue because they are miscellaneous products. They are sold by all kinds of people. For instance tires. There are people engaged in the sale of tires exclusively. The Imperial handles tires purely incidentally to its petroleum operations. I can see no reason for this Commission recommending a reduction in the Imperial's price for tires. They are

selling them competitively with other businesses, other wholesalers who are not engaged in any way in the petroleum business. Candles the same way. Hardware stores and grocery stores sell candles. Imported oils. The Company does not manufacture the imported oils, and other people sell them. I think it is reasonable to assume the price could not be terribly out of line or department stores would be taking their shirts off, as it were.

THE CHAIRMAN: That applies, from all we have heard, that applies equally to gasoline. They can only keep up that price if their competitors will let them.

MR. COTTLE: That is true, but what we are trying to arrive at is this company's cost of doing business, and this company's business is 70% gasoline. Clearly that is the kind of business that it is in. It is only handling these other things because it is in the gasoline business. Therefore, they are all seconday matters.

THE CHAIRMAN: Is not your approach then, if you take that viewpoint, should not your approach be to charge everything to gasoline?

MR. COTTLE That would be a reasonable thing to do.

THE CHAIRMAN: And then say all these are mere by-products which we credit against that.

MR. COTTLE: On the basis of this marketing I think that is quite a sensible approach. In fact that is the approach I took when I was arriving at their marketing expense of 4.34, or something like that.

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Their income from all these things was 1.4. The net difference is their actual cost of gasoline, treating them as by-products. I think that is quite a sensible approach to the problem when you are thinking of the price of gasoline. Then all of the profit over and above the profit on miscellaneous products has to come from gasoline.

THE CHAIRMAN: Well we have taken you far away from your normal course of argument, Mr. Frawley.

MR. FRAWLEY: What I was saying was - I come back to the comments that some of these items in his expenditures, as we go along, and I think I can leave it now and pursue an analysis of the profits and find out why it was there and lead up to a submission with respect to the rate of return.

THE CHAIRMAN: Have we got that yet? What the profit is in marketing?

MR. FRAWLEY: No, and I am just going to give it to you. All we have is per gallon of gasoline worked out. It is these Exhibits "733" and "734" that were really interpolated into these remarks. Before I go on, if I may give this a number. This is what Mr. Brownlee asked to be marked. It is The Case for Alberta.

CASE FOR ALBERTA IS NOW MARKED EXHIBIT "735".

MR. FRAWLEY: Mr. Brownlee was referring to, he must have been referring to 3, 4 and 5. At least looking at the Table of Contents, the gasoline tax is dealt with - or looking at the Index rather, the gasoline tax is.....

MR. NOLAN: The record must contain his reference to that?

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MR. FRAWLEY: Yes, I think it does.

MR. HARVIE: Page 262, I think, Mr. Frawley.

MR. FRAWLEY: Yes, there is a table 262. That is probably the table Mr. Brownlee was looking at.

In approaching a review of the Imperial's profit performance, we are confining ourselves to a critical analysis of that profit in relation to the capital employed, and we will attempt to show what the tank waggon prices could have been if the rate of return had been 6% which is more than the all-Canadian average, of say roughly 6%. We are making an analysis of profit accepting the profits as shown in the exhibit, accepting the profits as shown in Exhibit "655" and accepting the investment as shown in Exhibit "580". Now Exhibit "655" shows that the gross difference - and I am only dealing with the result at the bottom of the page - the gross difference between the selling price and the laid down cost of the products was $1,520,516.44. The marketing expense, shown on Exhibit "659" was $1,021,694.80, and the net profit before Income Tax was $498,821.64. The Income Tax was $109,740.75, and the net profit, therefore, was $389,080.89. Now I want to explain that figure of $1,520,516.44 which I have said was the gross difference, or the spread in other words, the gross difference between selling prices and laid down costs. Now to appreciate and understand that figure, one refers to Exhibit "656", "657" and "658". Total of Invoices, Exhibit "656". Exhibit "656" shows that the total of the invoices was $3,913,253.65.

This is gasoline. Freight to be deducted was $772,773.54. Cost at the refinery on the jobber basis was $1,881,423.90, which appears in Exhibit "657". Sales Tax to be taken off was $158,234.59. Cost of the packages to be taken off - Exhibit "657" - is $7,555.82, which leaves $1,093,265.80, or for all products $1,520.516.44. The $1,093,265.80 is the total expense, the total difference, the total spread for gasoline alone, and that is the 5.1% that we had this morning in Exhibit "734", being the actual spread on all the gasoline sold in Alberta. Or for all products the gross is $1,520,516.44, the figure that I set out a moment ago to analyze. That is the first figure to look at. So we know now $1,520,516.44 is the gross profit, the gross spread, the gross profit between the cost of gasoline and the selling price of it.

Now the marketing expense is the next figure that I have to discuss. $1,021,694.80, and that is in Exhibit "659". Now th t is the figure that indicates all of the money that the Company spent under these headings: Main Warehouse Expense; Delivery Expense at Main Warehouses; Bulk Station Expense; Barrel Expense; Service Station and Dealer Expense; Idle Service Station Property and Other Property Expense; Sales Expense; Office Expense and General Administration, and it all adds up to $1,021,694.80. As I say this is a very important document, of course, These are the statements and this is the evidence which Dr. Frey examined with Mr. Cottle and we know that he was not able to find ground to criticize the expenditures which the Company made. The net profit, that is the result, that is the difference

between these two figures after deducting Income Tax was $389,080.89, which appears on Exhibit "655". Now that profit of course is arrived at by using the 1938 prices, during the whole of 1938 the prices which were in effect from June 1938.

Now the next figure to analyze is the capital invested which appears on Exhibit "580". The capital invested in marketing is $3,944,746.41, and you deduct from that unused properties $263,111.48, and you arrive at a figure of $3,681,634.93. That is the figure on which the Company thinks it should have a profit, a rate of return. Now in Exhibit "655" it shows for capital employed in direct marketing.....

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MR. FRAWLEY: Exhibit "665" is a statement of other capital employed.

Exhibit "580" shows the total of the capital employed which I gave you as being $3,681,634.93, excluding the unused properties, $ 263,111.48, and shows an item of $1,491,199.27 being other capital employed and a separate Exhibit was filed, Exhibit "665", showing that in detail, $1,491,000.

Now there were some things in that Exhibit which we thought needed explanation and my friend Mr. Nolan has been good enough to obtain further information for us about that. We wanted to know something about the amount of money which the company loaned out in mortgages. It might be of some importance in discussing some of these marketing practices, of freezing outlets by advancing money to dealers and so on, so we asked Mr. Nolan to try and run that down for us and he was good enough to do it and it is contained in two or three letters which passed between myself and Mr. Nolan and Mr. Nolan and Mr. Halverson. I would think there would be no objection to that being filed to supplement Exhibit "665".

THE CHAIRMAN: Any objection.

MR. NOLAN: No sir, I have no objection.

THE CHAIRMAN: Now you say that supplements----

MR. FRAWLEY: Yes, it arises out of and answers questions arising out of Exhibit "665", other

capital employed.

THE CHAIRMAN: This will be Exhibit "736" then.

(FILE OF LETTERS PRODUCED HERE MARKED AS EXHIBIT "736").

THE CHAIRMAN: Now just a minute, you say they touch upon what.

MR. FRAWLEY: Exhibit "665".

THE CHAIRMAN: Yes.

MR. FRAWLEY: And when, before we get through with it, Mr. Halverson was giving us a new figure, a figure on mortgages which did not appear in Exhibit "665". To that extent it adds to the exhibit. It is not anything on which the company is seeking or asking any rate of return and it does not complicate things at all that way. The only value of it, of this thing is for some discussion when we get to the question of freezing dealer outlets.

THE CHAIRMAN; These are real estate mortages held in this Province.

MR. FRAWLEY: That is right, on dealer outlets and the company themselves say that "we do not want any return on that", just a minute now, yes, because they in no way represent a charge against Alberta operators. They are simply an investment and any income from same in the nature of interest is of course carried on the books at Sarnia.

THE CHAIRMAN: That is strange, is it not.

MR. FRAWLEY: You mean----

THE CHAIRMAN: Why are they not an Alberta investment?

MR. FRAWLEY: Well perhaps I should state and explain what they are. It might be as useful now as at any time.

THE CHAIRMAN: If you went to the full extent of that, if you say "We do not want any return on anything we charged up at Sarnia", you might be putting the competitors in Alberta in a bad spot if you determined their rate of return on that.

MR. HARVIE: They have mortgages in the same way as the other companies might have investments----

MR. FRAWLEY: It is the same as if they took some Dominion bonds or Alberta bonds.

THE CHAIRMAN: Well that is all right but is it the same.

MR. FRAWLEY: I think this correspondence---

THE CHAIRMAN: I mean when you take a mortgage from a person who is going to sell your gasoline without which he would not have the equipment for the selling of that gasoline, is it the same as buying a Dominion Government bond when, when, ultimately you reach the point where you are saying the price of gasoline should go down, which affects not only Mr. Halverson but all the other people engaged in that business in this country. If he is throwing out something properly chargeable against his operations.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And you adopt his view that he has a right to throw it out. Now are we fair

to the people who have not got a head office in Sarnia to which they can charge things.

MR. FRAWLEY: You may be quite right and let us see what Mr. Halverson has to say about it. I wrote Mr. Nolan on the 29th of November and said:

" It has just come to the "attention of Mr. Cottle and myself that your "clients hold mortgages on various dealers' "properties throughout the Province.

" Mr. Cottle advises me "that probably this amount is included in the "item, Long term notes receivable--$125,819.82, "in Exhibit "665" which is a statement of other "capital employed--direct marketing. Would "you be good enough to ask your clients to "prepare a break-down of the above item of "$125,819.82, showing separately any items "which represent monies advanced or loaned to "dealers for which security on dealer's "property has been taken."

Mr. Halverson replied to that on the 6th of December:

"Dear Mr. Nolan:-

" This acknowledges your "letter of November 29th from which we note that "Mr. J. J. Frawley, Commission Counsel, wants a "breakdown of Long Term Notes Receivable - "$125,819.82.

" We are glad to furnish "this breakdown, which is as follows:

" 1. Salesmen's Auto Accounts $3,605.15

" 2. Agent's Truck Accounts 34,243.97

" 3. Mortgages 7,174.00

" 4. Equipment Bills Receivable 80,796.70

" Total $125,819.82

" Agents' Truck Accounts "of $34,243.97 represents financial assistance ex- "tended to our agents to purchase trucks, which "is repayable in full, as per our evidence Exhibit "#314, page 8.

" The reason that Mortgages "to the extent of $7174.00 are carried on our "Alberta books is that no part of this sum repre- "sents money advances, as these Mortgages arose "through the sale of property and protection of "merchandise accounts.

" Equipment Bills Re- "ceivable'

THE CHAIRMAN: Excuse me, I did not follow that, what was said after those mortgages.

MR. FRAWLEY: "Equipment Bills receivable".

THE CHAIRMAN: Nothing said about what the mortgages are given for.

MR. FRAWLEY: No, it will develop, Mr. Chairman.

THE CHAIRMAN: I see.

MR. FRAWLEY: The mortgages were $7,174.

"Equipment Bills Receivable of $80,796.70, above "referred to, covers sale of pumps and tanks to "dealers on terms, which also is repayable in

"full, as per our evidence, Exhibit "314", page 9'

Now:

"Although Mr. Frawley in his letter of November "29th only asks for a breakdown of Long Term Notes "Receivable, Exhibit #665, we are also glad to "give him a breakdown of Mortgages we hold in "Alberta,'

I had not asked for that:

"As these mortgages are investments, the same as "bonds, they are carried on our books at Sarnia.

" As of December 31, 1938,

"these Mortgages were:

"	Chattel Mortgages etc.	$ 6,086.05
"	Mortgages on Real Property	62,019.49
"	Total	$68,105.54
"	Of which items arose through Merchandise a/c and sale of property	2,700.00
"	Balance representing Cash advances.	$65,405.54

"

" Our "General Review of "Marketing Operations in Alberta" - Exhibit #314 - "in which we went into considerable detail as to "marketing expense, did not deal with Mortgages "because they in no way represent a charge against "Alberta operations. They are simply an invest- "ment and any income from same in the nature of "interest is, of course, carried on our books at "Sarnia.

" If Mr. Frawley considers "these Mortgages as being relevant to our market-

"ing operations in Alberta, it is unfortunate "that he did not develop the matter on the two "occasions we appeared before the Royal Com- "mission as that would have given us an oppor- "tunity to give evidence in regard to the matter.

" Our policy is that finan- "cial advanced covered by the Mortgages above re- "ferred to, have not been extended to competitive "accounts but have been utilized to enable our "dealers in a few instances, to modernize their "premises thereby eliminating any necessity for "our Company making any investment in service "stations at the points in question.

" Yours very truly,

" "A. E. Halverson" "

I replied to that, to Mr. Nolan:

"Dear Mr. Nolan:

" I acknowledge receipt of "a copy of Mr. Halverson's letter to you of the "6th instant in which he explains the item of "$125,819.82 appearing in Exhibit 665. Mr. "Halverson's explanation is helpful up to the "point where he arrives at the figure of "$65,405.54, being balance secured by mortgage "representing cash advances. Mr. Halverson "advises that the financial advances represent- "ing the foregoing item "have not been extended "to competitive accounts" but have been utilized "to enable his dealers to modernize premises

"thereby eliminating the need for any invest-
"ment by Imperial in service stations at the
"points in question.

" What Mr. Halverson means
"when he says that these advances have not been
"made to competitive accounts is not particularly
"clear and I would be very much obliged by your
"writing Mr. Halverson at once and asking him
"for some further information.

" Will Mr. Halverson be
"good enough to let us have an analysis of the
"item $65,405.54, showing the names and addresses
"of the dealers and the amount outstanding in
"each case.

" Yours truly, "

Then Mr. Halverson's letter of the 11th of December to Mr. Nolan completes the correspondence:

"Dear Mr. Nolan:

" This acknowledges your
"letter of December 7th to which you attach letter
"received from Mr. J. J. Frawley, same date, in
"which Mr. Frawley asks for "an analysis of the
"item, $65,405.54, showing the names and ad-
"dresses of the dealers and the amount outstand-
"ing in each case."

" As requested, we attach
"herewith, statement giving the information de-
"sired, from which you will note that the total

"cash advance is $65,005.54, and not $65,405.54 "as outlined in my letter of December 6th. In "this connection Mr. W. J. Whitling, our Assist- "ant Treasurer, advises as follows; "You will "note that the total is $400.00 less than that "reported in our letter of December 4th, the "reason being that items which are those through "Merchandise Account and Sale of Property should "have read $3,100.00 deducted instead of $2,700.00 "which was deducted."

" We would also call your "attention to loan to Mr. F. T. Norris, Edmonton - "$6,137.74. This is not a loan to a dealer, but "to an employee in connection with his residence "at Edmonton.

" Therefore, the total cash "advances to dealers is somewhat less than "$60,000.00.

" In our letter of December "6th we stated - our policy is that financial "advances covered by the mortgages above referred "to, have not been extended to competitive ac- "counts, etc. By this we mean that it has been "our policy not to extent financial assistance to "accounts buying from the competitor in order to "get them to switch over to our Company, and to "the best of my knowledge, this policy has been "adhered to. However, we have extended financial "assistance to accounts that were already buying "from the Imperial Oil Company, to assist such

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"dealers to modernize their premises, and in a "few cases, to hold such Imperial dealers against "special offers made by the competitor. In a "few cases also, advances have been made to se- "cure new retail outlets in areas where our "representation was unsatisfactory.

" Yours very truly,

" "A. E. Halverson". "

And accompanying that is a list of monies advanced and covered by mortgages carried in the private ledger as at December 31st, 1938, mortgages on real property.

I will not of course read this, it lists dealers throughout the Province at various points and includes F. T. Norris, the F. T. Norris account at Edmonton. Mr. Norris is an employee of the Company and has to be differently regarded I take it, total mortgages on real property $60,519.49 and then $4,486.05 of chattel mortgages, making a total of $65,005.54.

THE CHAIRMAN: In the net result, Mr. Frawley, all connected with the furtherance of marketing operations.

MR. FRAWLEY: Oh yes, quite. My inquiry arose because of a complaint which had been received from one of the companies that when he was endeavoring to get business he would find not only the 100% accounts stood in his way but this kind of thing, the mortgages, monies advanced, monies advanced by way

of mortgages, which, so far as the competitor was concerned, very effectively kept the man with the Imperial Oil. Now it was arising out of that that I asked for this.

THE CHAIRMAN: Now then that being so, why is that not chargeable to marketing.

MR. COTTLE: Mr. Chairman----

THE CHAIRMAN: Whether the Imperial charges it or not.

MR. COTTLE: It makes no difference whether it is included or not for this reason, the investment is in Sarnia and so is the income. Now the income from the mortgages would have to be considered as a proper return to be made on this investment if the investment were shown in Alberta, otherwise of course they would have no justification for making them----

THE CHAIRMAN: It would only be taken into account if there was income. If the indebtedness was paid. If the interest was paid. Supposing if, over a period of five years it appeared that the account, the man had got a loan of $500.00 and it had been treated as an investment but on the $500.00 he had paid not a cent, would that not be of importance.

MR. COTTLE: That would put a different picture on it completely. If that were the case I presume it could be argued that it is quite an improper thing.

MR. FRAWLEY: Surely it is not an investment, it is not an investment.

THE CHAIRMAN: If I am following it aright,

it is a means of getting business.

MR. FRAWLEY: That is all it is.

MR. COTTLE: But Mr. Halverson is content to look to the interest for his return on the money.

THE CHAIRMAN: That is all right, Mr. Cottle, that is all right, as against Mr. Halverson perhaps but Mr. Frawley is going to ultimately ask us to make a recommendation about gasoline, predicated upon a certain set of figures including Mr. Halverson's and if he wrongly excludes from that, whether Mr. Halverson is content or not, an operating expense we might, if we accepted Mr. Frawley's suggestion, do an injustice to British American, using them as an illustration, if arbitrarilythe price of gasoline for the British American's goods goes down, just for the sake of discussion, let us say, if we take it down by an amount that is regarded,to a figure which we think should be there, you are not doing fairly by them. If the reduction were made following upon anything we advocated, it is going to apply to everybody that sells gasoline. If we ever accept Mr. Frawley's submission.

MR. COTTLE: That is on the assumption that----

THE CHAIRMAN: Now this may not amount to much, I may be wasting time really but in principle I think it is wrong.

MR. FRAWLEY: Yes.

THE CHAIRMAN: To say that this is charged to Sarnia and therefore a fortiori we are not interested

if it is Alberta's marketing expense we are considering.

MR. COTTLE: I quite agree with that. The other point is though that the income, they are treating the mortgages the same as investments and the income also goes to Sarnia and if we transferred the investment we would also have to transfer the income.

MR. HARVIE: Everything.

THE CHAIRMAN: If it is of any importance I think you would have to find out what that income was.

MAJOR LIPSETT: Which is paid.

THE CHAIRMAN: At any rate, I mean the income which is paid. I do not know that it is of importance, I may be making a mountain out of a mole hill, Mr. Frawley, but it seems to me the principle is wrong.

MR. FRAWLEY: There is no magic in saying this is in Sarnia and I am not suggesting there is anything improper about it at all.

THE CHAIRMAN: We do not know.

MR. FRAWLEY: But it is strange, perhaps only strange, because I was lax in not looking for it, but perhaps I am not going too far to suggest that Mr. Halverson might have spread it out on his Exhibits. I am not saying he retained it improperly.

MR. NOLAN: He has explained why he didn't.

MR. FRAWLEY: Yes, he has explained but it is just his explanation which is giving rise to this discussion.

MR. NOLAN: He says the policy of the company is to treat it in this manner and for that reason they did not think it was of interest to the Commission but that is just the question of policy.

MR. FRAWLEY: Supposing there was a half a million dollars.

THE CHAIRMAN: That is his policy.

MR. NOLAN: Yes.

THE CHAIRMAN: And nobody is saying the Imperial cannot keep their books where they like but for the purposes of Mr. Frawley's submission---

MR. NOLAN: It shows the danger of taking perhaps the performance of one company to judge the others by that performance.

MAJOR LIPSETT: And if there was something in the way of a price reduction, Mr. Nolan, it might be doing an injustice to you if it did not treat this as part of your capital.

MR. NOLAN: If it would be part of my capital the return on my investment would be correspondingly less.

MR. FRAWLEY: Yes, well----now then, Mr. Chairman, I have arrived then----

MR. HARVIE: Just on that point we filed a similar statement on behalf of the British American and I ask Mr. Cottle to check me if I am wrong in this, and that is that there is no reason why that should not be charged as an operating expense in this Province. True we have to give credit, and I be-

lieve we have, in our Alberta figures for any income received by way of rental or anything else, but it seems to me that it is a very proper charge because in our case it shows the cheapest way of getting business.

THE CHAIRMAN: It looks to me, at the moment, like the same thing as painting a man's garage or loaning him a pump.

MR. FRAWLEY: Well Mr. Mahaffy's clients are certainly up against it, there is no doubt about that, that that is the kind of thing which they are up against.

MR. HARVIE: For owning properties and leasing them.

MR. FRAWLEY: Anything, more than even the 100% agreement.

THE CHAIRMAN: It seems to me it is just part of the many things which are called "under the canopy business", as distinguished from keeping the price out and out in the open for everybody to see.

MR. FRAWLEY: A price concession.

THE CHAIRMAN: Yes.

MR. FRAWLEY: That is all.

MR. COTTLE: And perhaps a first cousin to idle property, of having service station sites which have not yet been built on, and keeping other people from building on them, which we call "idle property".

MR. HARVIE: The idle property throughout the whole investigation was thrown out. I have, on that point, Mr. Frawley has been stressing the point and

Mr. Miller suggested that all he is asking for is bank interest on that type of investment, on service stations and so on and I refer to Volume 99, page 11,200, reading possibly page 11,199, starting at page 11,199 and reading on 11,200 and 11,201 the matter is dealt with by way of question and answer between Mr. Frawley and Mr. Miller and he is dealing with that very item as to the owning of property and leasing property and releasing it at reduced rentals and not getting a return. Now Mr. Miller says:

> "Well our objective is, if possible, to secure "a return on our investment of what bank in- "terest might be, say 5% or 6%, plus the taxes".

Now I think all that can be interpreted as meaning or that he had in mind there that class of investment which naturally there has been a criticism against and which has been shown in the evidence we did not get a proper return on, that he just strives to get all out-of-pocket expenses plus 5 or 6% or bank interest.

THE CHAIRMAN: Is there any way of working it out, I do not say there is, would it not advantage your company and all companies to have no more mortgages or loaning money, painting buildings, loaning pumps and tanks and things of one kind and another.

MR. FRAWLEY: I am going to have a lot to say about that, that cuts both ways.

MR. HARVIE: I think Mr. Miller says on the various types of doing business, from bulk stations and distributing stations, that the cheapest

way of doing business, obtaining retail sales, is through the service station.

THE CHAIRMAN: I am perhaps taking you off the point.

MR. FRAWLEY: It is something we may as well keep in mind, these are not service stations, these are dealers that Mr. Halverson goes out and he does it, because everybody else does it, he freezes up, he not only signs the man up 100%, which perhaps does not mean very much because nobody ever has heard of a man being sued in the courts for departing from the 100%, but this is of this nature, the competitor goes into a town and finds a place frozen, with one of these 60,000 dollar mortgages, and that is a different thing. No matter how willing he may be, all the Mayland Company or any other company can do is to dip down in its pocket and pay out the mortgage, and take it over.

MR. HARVIE: The only difference I see is that in one case the dealer owns the property and in the other case the company owns it and leases it, and in both cases it is tied up at a certain cost, by way of loss of interest on capital or----

MR. FRAWLEY: No, I do not think the Mayland Company, using them again, are going around to your service stations looking for those kind of outlets such as we see just across the street, they have committed those to your care but they are looking for one of your outlets down in High River or up in Lacombe, they have to get this new gasoline on the market in some fashion and when they go in they find the 100% dealer

contract, which may not be as I say unsurmountable, but coupled with that, they find the man is tied up to Mr. Halverson for $5,000, and that is a horse of another color. Now I am seeking, I am seeking to increase the competition, make it keener, to use my friend's expression, to keep the sensitive Mr. Halverson more and more sensitive and to create conditions that will cause Mr. Halverson some day to say "Boy, this has gone far enough, down goes the tank waggon because I, I, I can never get any relief from this discussion of these things, all this price consciousness, I can only get away from it in one way and that is by a tank waggon cut"and that is what I am going to put to the Commission when the time comes, that we must bend every effort to crack down on Mr. Halverson, keep the competition alive, alive, alive and we will over the long swing if we live long enough, we will get the tank waggon price down. Now to shorten up that long swing I have some suggestion of what a Board might do, that is in a nut shell all I have to say.

THE CHAIRMAN: True, well now, what is your feeling, Mr. Frawley, about sitting. If we are going to sit until 6 o'clock tonight that is one thing, if we are, we are going to adjourn now for a half hour but if you want to stop at 4 o'clock we will go right on, and if you want to sit these evenings let us know, whether you feel you can make an argument----

MR. FRAWLEY: well Mr. Chairman----

THE CHAIRMAN: It is your pleasure as to how we deal with it accepting always that we will not sit for long hours at any one time, no longer hours than we

are doing now because we do not think we can understand well what is being said after that.

MR. FRAWLEY: No. Well Mr. Chairman, let me just perhaps take a few minutes to give you, to give the Commission and my friends, some idea of what is ahead of us. I am now on, insofar as numbers mean anything, I am now discussing my program number 4 which is an analysis of the Imperial's Profit Performance. I will go through that pretty quickly. Now what I mentioned a few moments ago, after I make this suggestion with regard to the price reduction which is warranted, then I turn right around and commence to make a submission that if there is to be any price reduction, or even whether there is to be or not, that then we must examine carefully these competitive practices, my submission being that they should be encouraged then and that will take some time, because I have, under the heading of competitive marketing practices that should be encouraged are such things as, I have six of them "The posting of a tank waggon price"; "Abolition of the 100% Dealer Contract"; "The discontinuance of Ethyl discrimination"; "The posting of wholesale prices at the outlets"; "The expedience of Government operated pilot stations"; "The encouragement of co-operative marketing".

Then I go from that into a memorandum called "collateral marketing matters". "Collateral marketing matters" to discuss such things as "barrels", "so-called free delivery", "consumer accounts", "Montana imports into Southern Alberta", "Standards", "Retail margins", and "doubtful retail marketing practices", "jobbers", "service administration"; from that I go into

some others, into a discussion that might take some time of a regulatory Board and the desirability of recommending that there be set up a regulatory board.

(Page 17,354 follows)

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MR. FRAWLEY: Then I have a submission with regard to a University Chair for Petroleum and then I will have something to say about the cost of administering the Statute and so on.

THE CHAIRMAN: And something to say, I suppose, about farm problems and taxation?

MR. FRAWLEY: Yes. I do not know where that was hiding. I have a memorandum on the gasoline tax. A complete memorandum on the gasoline tax. So that, let us face the issue, it is taking time and we are going slowly but I think, this is Thursday evening, if we just sit our regular week, having in mind that Saturday is, to all intents and purposes, the day before Christmas, and we would not finish up to-morrow night even if we sat to-night and sat all day to-morrow and sat to-morrow night, I still think we would be unfinished. So that if that is so it seems to me that it might be well, without pushing me too hard, because it is pretty trying, very trying, not only here but at night. It is quite trying.

THE CHAIRMAN: It is doubly trying, of course, by having to cope with the questions put to you in the course of your argument. But we think it is serving a very useful purpose.

MR. FRAWLEY: Yes. I could rattle through this and sit down and that would not be as trying to everybody, and I suppose including myself. But I do not think that would be just as well. So we must face it frankly and I cannot see that we can finish this week, if we sat all day. I think we might, but we are not going to do that, if we sat from nine o'clock in the morning to ten o'clock at night.

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It would not do the thing justice at all. It would be ragged. It would be impossible. I think we should sit until to-morrow afternoon and adjourn until next Wednesday. Tuesday, for that matter. Tuesday is Boxing Day but I am in the hands of the Commission about that. However, that is my suggestion, if anybody has anything else.

THE CHAIRMAN: You are proposing we sit the regular hours to-day and to-morrow and then adjourn until next Wednesday morning?

MR. FRAWLEY: Yes, that is right, and then I think we can finish. No doubt about it at all. We can finish on Wednesday, Thursday and Friday next.

THE CHAIRMAN: You are allowing that other counsel might have something to say?

MR. FRAWLEY: Oh, yes.

THE CHAIRMAN: Well, what is your feeling, Gentlemen?

MR. NOLAN: Well, I appreciate the fact that we are largely responsible for the delay, because there have been many interruptions and interjections, some of them were invited and some of them were not invited, but none of them has been discouraged. I think we are making some headway. I hope, if Mr. Frawley does adjourn from to-morrow until Wednesday that he does finish next week, because I do not want to go on the week after the first of January. Monday is the first of January, and if there is any way of avoiding a continuance of these proceedings on the 2nd, 3rd and 4th of January, I would appreciate it. But I understand that counsel for the Commission thinks he can finish next week by sitting on Wednesday morning. I am quite willing to

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sit any time you say, but I do not want to sit on Tuesday, I may say. Tuesday is an ancient and honourable holiday known as Boxing Day.

MR. FRAWLEY: But that was not introduced into this Province, until the advent of one John W. Hugill,K.C. did it become a holiday.

MR. NOLAN: It is one now. It was celebrated a long time before Mr. Hugill ever came to this Province.

MR. FRAWLEY: In other parts of the world. However, I am in favour of it.

THE CHAIRMAN: How about this week? If we have to adjourn we will adjourn until Wednesday morning.

MR. MARVIE: I concur in that thought of not sitting on Tuesday. As to sitting this week and if it would make it more sure of being through reasonably early next week-----

THE CHAIRMAN: Well, what do you think about sitting on Saturday morning, as we have frequently done, sitting from half past nine till one?

MR. FRAWLEY: That is all right.

THE CHAIRMAN: On Saturday morning. Would that not provide some insurance against our not finishing the following week?

MR. FRAWLEY: Yes, it will get that much more behind us. I am not seeking my personal advantage in stopping to-morrow night, but I never supposed for a moment that we would not finish next week.

THE CHAIRMAN: Well, you know how it is going and you are coming to matters that may be very much opposed by other counsel present.

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MR. FRAWLEY: Yes, there will be lots of digging into the evidence, perhaps. Well, I would say that then.

THE CHAIRMAN: Then we will sit till four o'clock each day as usual and on Saturday from half past nine till one o'clock, if that meets with your approval.

MR. FRAWLEY: Yes.

THE CHAIRMAN: If we have to adjourn we will adjourn until Wednesday morning at 10:30 o'clock.

MR. FRAWLEY: Now, the net profit which I gave you a few minutes ago, the total net profit of the company as shown on Exhibit "655" of $389,080.89----

THE CHAIRMAN: Just before you go on. Did you want to go north on Friday night?

MR. FRAWLEY: I am driving anyway, so I can go on Saturday afternoon. So that is all right.

THE CHAIRMAN: Very well.

MR. FRAWLEY: The profit of $389,080.89 represents a return of 10.57% on the total capital employed. Now, it is to be noted that the company does not seek a return on the capital tied up in unused properties, all of which are listed on an Exhibit, the amount of them. Now, in our Submission, 10.5%-----

THE CHAIRMAN: Why is that again?

MR. FRAWLEY: Some of the same considerations arise again that you have just been putting forward.

THE CHAIRMAN: You see, we are taking one company. We are following through their operations for the reasons you have given.

MR. FRAWLEY: Yes.

THE CHAIRMAN: It is important that we should

take that company. But if you are going to do something in the end which affects not only that company, you have to be very careful no matter what that company's type of operation may be, it does not reflect to the disadvantage of other companies. Mr. Halverson says we do not care for any return on any unused properties. That is very fine.

MR. FRAWLEY: Of course, you see it is a two-edged sword. Looked at the other way, if the Imperial Oil Company had all the valuable corners, let us make an extreme case and say they had one million dollars tied up in this Province in unused properties. If we put that in the capital structure the gasoline consumer in Alberta - you see, they are the price leader and that would be in their cost, and that would be spread out as a justification for a spread that the people of Alberta would be paying for, the one million dollars-----

MR. HARVIE: Would they now. Possibly our company would not have an investment of one million dollars and we would them possibly be able to cut the prices considerably.

MR. FRAWLEY: Oh, dear!

MR. HARVIE: In considering that I think there are three types of investment that must be considered. There are those that are unused. It may be for protection purposes and I understand Mr. Halverson suggested they did not want a return on that. As far as our company is concerned, we are more or less in accord with that. I do not know. It is an opinion. It might be, contrary to Mr. Frawley's thought, that just because there is too much money spent on protection, that it should all be properly

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considered as in the capital structure. On the other hand, there is the capital that is not now usefully employed but has been properly expended in the past and through change in circumstances is just not being used. As Dr. Frey says, that is just a case of mistake. There are bound to be mistakes in capital structure. Now, the capital structures as arrived at by Dr. Brown, for instance, he does not consider those at all in his refining cost. It is just that part of the plant used to-day at a proper valuation. On that basis he suggests a return of 13% as fair. We in our submission stated that there are two ways of looking at it. One is to have all your capital structure, if you included all sound investments, even if they are not used now. Then quite properly the rate of return might be lower than otherwise. But if you are only using the assets usefully employed you must have a higher rate of return to average out your losses on those that have gone out of useful employment. I think that the evidence is that the usual practice is to give a higher rate of return and possibly not include in your capital set-up assets that are not now presently employed.

THE CHAIRMAN: I can quite see, Mr. Frawley, that if some investments are improvident investments there should be a return upon them because they might have been wise at the time they were made. If they are investments that are recklessly made, or made with a view to - for improper, or what one might say for unsound business reasons - then they are improvident investments.

MR. FRAWLEY: If you apply that test, Mr. Chairman, we find the Imperial has $263,000.00 tied up in

land in this Province. That is just what it costs them. Vacant corners in Calgary and Edmonton and round and about. I would not say that they are improvident. They probably were the result of good business judgment as of the time they were made. There is one I know of on the corner of 108th Street in Edmonton.

THE CHAIRMAN: Why should not they get a return on anything in the world that might be said to be a prudent investment?

MR. FRAWLEY: As I say, the only reason I have to say is that it is a fine situation for the people who are having to buy gasoline. This is not a public l utility yet. That is rather a public utility principle, is it not?

THE CHAIRMAN: Why? They say, the minute you get away from allowing them a proper return on their money, that is what you are contending for now, the minute you get away from that you are into the competitive field where the consumer does not mean a thing. He is to be charged precisely all that can be gotten from him.

MR. FRAWLEY: That is right.

THE CHAIRMAN: Or that anybody charges him, having regard to what the competitor will give him the goods for. The minute you leave that idea of a proper return on the investment, what have you to say. You say "We are living in a competitive world and the poor consumer is going to take what he gets."

MR. FRAWLEY: I think it might be a good thing to put it all in there because if all these service stations, all this investment in idle property, is put in, and all of

the service station investment is put in, this huge investment, and we are saying they should get a rate of return on it, looking at it as part of the marketing expense. That is, perhaps, something that the company won't want. Because, frankly, the people of Alberta, or any other Province, will refuse to pay a rate of return to the Imperial Oil Company for the hundreds of thousands of dollars they have spent in buying up service station properties on which they have not built a service station. I do not know. Perhaps that is what it will mean, and what it will do. But that is quite beside the point and, perhaps, not any concern of the Commission. But, perhaps, it is of some concern. It will hasten the day and will only add fuel to the flames of those extremists who say "The Government should take over the whole industry, rationalize it completely, and take it all over and then there won't be any idle service station properties." Perhaps that is why the company does not want it in.

MR. NOLAN: No. They were taking it out long before we had extremists in this Province. That is our policy.

MR. FRAWLEY: If you say it is a prudent investment, and Mr. Halverson, I know, would not have said, if he were here, that this was an improvident, and a silly investment. He would say "No. When we bought the corner of Jasper and 108th Street in Edmonton, we did it because in our wisdom we thought it was a good place to put a service station." I do not know how many thousands of dollars there was put into that corner, and it probably will continue to the end of time and they will get no rent on it.

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THE CHAIRMAN: Do you mean to say that nowhere in the operations of this company will that be reflected. Would you not expect that to be found somewhere in the Canadian operation or somewhere. Or is that money which is treated as if it came out of somebody's pocket other than this company? Surely that cannot be?

MR. FRAWLEY: I wonder where it actually is. It is not in this. Where is it?

MR. COTTLE: It is in their investments. Mr. Halverson says he does not expect the Commission to consider it as an investment upon which he should get a return out of the price of gasoline. Now, I think Mr. Halverson does not take the attitude that this is an improvident investment or a mistake that was made or anything of that kind. It was money that was spent by Mr. Halverson looking to the future. All Mr. Halverson says is "I am content to look to the future for my income, when the time comes that I am going to build a service station there. If I never build a service station on there then I am speculating in real estate and I am not looking to the gasoline price to pay a return on it."

MR. FRAWLEY: Where does he get a return on it?

THE CHAIRMAN: What becomes of it?

MR. COTTLE: It is just there. It is money spent.

THE CHAIRMAN: Is it treated as lost?

MR. COTTLE: No, as an investment.

THE CHAIRMAN: Upon which there is no return?

MR. COTTLE: That is right.

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MR. FRAWLEY: Where does the money come from to pay the taxes?

MR. HARVIE: They are possibly rented in some cases.

MR. FRAWLEY: We will take the empty corner. We have the rents and we have looked at that.

MR. HARVIE: The only rent you looked at is this rent for service station properties. There are other properties on some of these lands. I know we have some properties not service station properties. One is a house.

MR. FRAWLEY: We have the idle property statement. Just look at it, Mr. Chairman. Here is Exhibit "662", is the idle service station and other property expense.

THE CHAIRMAN: Exhibit "662"?

MR. FRAWLEY: "662". Now, we have in the City of Edmonton, for instance, on the corner of Jasper and 108th Street, an investment of $20,000.00. The taxes are $1,000.00. Now, the taxes are $1,000.00 and the other expense is $150.00. They collected there about $100.00 a month rent. It happens they collected-----

MR. HARVIE: Just for information, those are actually stores on that corner.

MR. FRAWLEY: Yes.

MR. COTTLE: Summing it all up in Exhibit "653" the total idle service station and other property expense is shown at $22,479.41. The company receives income from rentals on these properties of $17,979.65, leaving the company out of pocket in respect of that $4,499.76. That is this company's expense in relation to the idle property and it is included in their marketing expense.

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MR. FRAWLEY: Then they are seeking to get out of a gallon of gasoline, out of the marketing spread, the money with which to carry these idle properties.

MR. COTTLE: To carry the expense of them but not to give them a return on it.

MR. FRAWLEY: Why the distinction. Why should we have anything at all to do with idle service station properties?

MR. COTTLE: The only distinction is the policy of the company.

MR. FRAWLEY: Then we live and learn. Perhaps I am just displaying my lack of appreciation of the thousand and one complexities of this. I probably understood it at one time. Mr. Halverson goes into the City of Edmonton and spends $20,000.00 upon a piece of property. He has taxes to pay of $1,000.00. He happens to be fortunate with respect to one of those properties that he is getting as much in rental as it costs to pay the taxes. But equally well, probably next month or next year it will be idle and it will stay idle for another year. He says magnanimously "I do not want anything on my $20,000.00. All I want you to pay me out of my marketing spread, I want inserted into that an item so that I can pay the City of Edmonton taxes on that property."

MR. COTTLE: That may be a little unfair to Mr. Halverson because I think if it were put to him that the marketing expense includes $4500.00 for that item he might just say the same as he did with regard to the idle property. It was a very small item and no point was made of it.

MR. FRAWLEY: It may be a small item but we

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have Exhibit "659" filed.

MR. COTTLE: Prepared by me.

MR. FRAWLEY: Well, let us be clear about that.

MR. COTTLE: After a careful analysis of S-309 I segregated all these items in this one place in Exhibit "659". It does not appear clearly at all in S-309. This $4,499.00 only emerges as the result of my analysis. No point was ever made of it with Mr. Halverson.

MR. FRAWLEY: But let us make the point now. I mean let us understand whether or not he is seeking, in either Exhibit "659" or S-309, or Mr. Mayland's 99, let us find that out if we can whether or not he is seeking from the marketing spread some money with which to pay ---well, cannot we tell from this?

MR. NOLAN: He has $4,499.00 in his marketing expense.

MR. FRAWLEY: Surely, and that is in the 3.43.

MR. COTTLE: I think I can speak for Mr. Halverson and say that he would be glad to take this out of his expense. That is the only consistent conclusion one could come to.

MR. FRAWLEY: Perhaps he will. But it is just a little disconcerting to say that, perhaps, Mr. Halverson does not want that particular item in his marketing expense because I am putting to the Commission your Exhibit "659", and as far as I am concerned, it is at least as reliable as any of the Imperial Exhibits, because Mr. Cottle prepared it. Certainly. There is no question about that. I am not making any apologies for any of Mr. Cottle's statements. But there is a principle here to be

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settled, it seems to me. I cannot see any distinction between the rate of return on the $20,000.00 and the paying of the taxes on the Edmonton property. Not only the $20,000.00 investment, but lumping them all together. There is no particular magic in the $20,000.00. I should say so.

THE CHAIRMAN: Well, Mr. Frawley, at the moment I cannot see why a company should not be entitled to expect for its shareholders a return on every dollar that they ever expended that might be described as a prudent investment.

MR. FRAWLEY: You see, Mr. Chairman----

THE CHAIRMAN; If you apply another principle, the utility principle, then you may get into the field of argument whether it may be contended that since, that the consumer who is being protected by the machinery of the Public Utilities Board should not have to pay more than the service is reasonably worth regardless of the investment. There are two different theories. The confusion seems to me to arise when we try to intermix the two.

MR. FRAWLEY: Let us be consistent then. Let us put it in. I wonder if there is any good reason why the Imperial Oil Company does not want it in there. They probably have some regard - I am sure they have - for public opinion.

THE CHAIRMAN: Whatever we do ultimately, wherever it may lead us, we have to take our steps logically.

MR. NOLAN: It is not a question of public opinion. It is a question of a fair return on the used and useful property. There is nothing to indicate that it is any question of public opinion, either in the evidence or anywhere else.

MR. FRAWLEY: The Chairman suggests it should

be in. We have to be right or wrong about this.

MR. NOLAN: That is all right. If the Chairman says it should be in then it should go in, and it is in. Not because of public opinion.

MR. FRAWLEY: I am suggesting, and that is all, I am suggesting that there is not any reason for leaving the carrying charge in and taking the return on the investment out. I suggest there is not any reason. The company says "That is our policy." Then I say "Why this policy?" And I make the further suggestion that in my submission in any event it naturally follows from that that they might be concerned with not asking the consumers of gasoline in Alberta to pay a return on the investment of over $200,000.00 that they have tied up in idle service station properties. I say that might be what is in their minds. It is not very important, perhaps, after all, what I think was in their minds. I simply suggest that might have been in their minds. I agree with the Chairman there seems to be inconsistency about the fact the company says "That is our policy." Perhaps it is not very important.

THE CHAIRMAN: It might be important if one were concerned only with this company.

MR. FRAWLEY: What you say is this. You say the B. A. Oil Company or the X. Y. Z. Oil Company is sitting on the step awaiting the deliberations of this Commission and they say now "They have arrived at a price having thrown out or having agreed to the taking out or the leaving out of the item of X dollars, the return on the investment on idle property." They say that that is not fair to us.

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THE CHAIRMAN: They might say that should be taken into account in arriving at what is the fair price of gasoline.

MR. FRAWLEY: Quite.

THE CHAIRMAN: They say "They can afford to lose that, and, perhaps, they can afford to cut the price of gasoline too in order that we would cease to exist." It might be some such thought going through their heads. It might be a wrong thought, But after all, we are coming to conclusions about this. We have to go step by step, seeing that each one is logical and consistent with the one before.

MR. FRAWLEY: That is quite so. You have to have regard to the other companies.

THE CHAIRMAN: Certainly so. Mr. Cottle has given the reasons for taking one. But that does not lose sight of the fact there are others functioning.

MR. FRAWLEY: Which companies will either be advantaged or disadvantaged by whatever conclusion the Commission comes to with regard to the fairness or otherwise of the Imperial price?

THE CHAIRMAN: And sometime you have to face the question as to - after the analysis is completely made and your conclusion is arrived at - as to whether or not we can be guided by the operation of the biggest and presumably the most economical operating company in the whole industry.

MR. FRAWLEY: Quite so. That has got to be faced. I quite agree that the other companies are concerned with seeing that everything possible goes in, for their own salvation, I suppose. They want the price which is to be imposed on the Imperial to be as high as possible for the very

fact they have always to follow the Imperial.

MR. HARVIE: All we want is a fair return on our investment and not on everything that we can think of.

MR. COTTLE: Does not the question boil down to whether or not the unused property, at least property that is neither used nor useful, should be included in the price structure?

MR. FRAWLEY: That is right, or anything having to do with it, carrying charge, rate of return or anything else.

MR. COTTLE: I do not think there is any question about this and I think that can be assumed that by eliminating the carrying expense I am sure that if that were put to Mr. Halverson that he would do that.

THE CHAIRMAN: What do you say, from the accountancy standpoint, Mr. Cottle, should be done with property - that you have spent $100,000.00 on a piece of property and no one denies that the investment was a proper and prudent one. It is an investment which would have been made by any prudent investor who knew his business. It lies idle. It is part of business prudence that it should. As between the Board of Directors and the shareholders surely the shareholders would expect to get a return on that $100,000.00, would not they?

MR. COTTLE: I should think so.

THE CHAIRMAN: They would not eliminate it? and say "This does not matter in the conduct of their business." When you go the next step, you say the consumer is entitled to say that that prudent investment should not be taken into account in determining what price I shall pay for my gas in

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order to provide a rate of return on that investment.

MR. COTTLE: That gets back to the same discussion we had on the pipe line. If you will recall the 6-inch loop in the pipe line----

MR. HARVIE: You were dealing with a public utility.

THE CHAIRMAN: Yes, a different principle, I think.

MR. COTTLE: I am looking at it from the same point of view and we are discussing whether it should be in the investment or not. If we are not looking at it from the point of view of them being entitled to a rate of return then we are not concerned with what the investment is. We are interested in the cost and what the price is.

THE CHAIRMAN: If I appreciate where Mr. Frawley is going, I do not understand Mr. Frawley to be going the whole length of saying this should be a public utility.

MR. FRAWLEY: No, that is so.

THE CHAIRMAN: He does ask us to accept certain public utility principles, the idea of control.

MR. FRAWLEY: I quite agree.

THE CHAIRMAN: To a certain extent he goes that way and he says "These people should have a rate of return on something." Now, trying to reason with him and following along his lines, whether we ultimately accept his argument or not, we say "Can there be eliminated from that upon which the rate is to be fixed capital that has been prudently invested?"

MR. COTTLE: Whether it is used or useful or not?

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THE CHAIRMAN: Yes. You get into the public utility field. You immediately say the public are the ones we are concerned with. You get a return on the investment either in accordance with the service you give or the property that is used and useful in the service. "We do not care a tuppence about what you suffer because an obsolete plant is thrown into the discard. You can go out of business or you can give a certain kind of service at a reasonable rate." That is another thing again. Mr. Frawley is not going that far.

MR. FRAWLEY: Let me put it another way----

THE CHAIRMAN: I know I am not putting it very happily, Mr. Cottle.

MR. COTTLE: I see your point, Mr. Chairman.

MR. FRAWLEY: What is the difference between a perfectly idle piece of property, that is still a grove of trees; that kind of property, and a piece of property that is used for some other purpose, such as the corner of 8th Street and Jasper in Edmonton, a dry-cleaning establishment; or one on which there has been a service station erected which might just as well be closed up.

THE CHAIRMAN: It is losing money.

MR. FRAWLEY: Yes, it is losing money, and only a trickle of gasoline going through it. All prudent now. Let us assume at the time that investment was made it was prudent. Mr. Halverson wanted his little service station and this man in there selling some gasoline, now and then. But he says "I do not want any return on my empty property," on the corner of 8th Street and Jasper in Edmonton. It is inconsistent. Of course, I do not want to be driven into the position where I am going to recommend

that all this idle service station property - we are only assuming it was a prudent, wise and reasonable investment. It might have been the height of rashness to ever have bought that corner on 108th Street. That is why I simply again argue here-----

THE CHAIRMAN: Ultimately , you will have to take one position or the other; that it should be in or it should be out; I mean as far as your submission goes.

MR: FRAWLEY: Quite, but speaking for the consumers of Alberta, they have enough to carry without carrying Mr. Halverson's idle lots all over Alberta, $200,000.00 worth. $263,000.00 worth. The thing will have to be resolved at some time, as I see it now.

THE CHAIRMAN: There is no hurry, but it is something to be thought about.

MR. FRAWLEY: It would be very bitter for me to have to submit to this Commission that what the company itself does not do we should do for them and put this thing in, to be consistent, if we have to do that to be fair to the small fellow----

THE CHAIRMAN: Haven't you got to follow the thing through on your approach. And then you say "Where does that lead us?" That leads us to an absurdity, let us assume. You say "All right." Then what is your next approach? What is the next? Is it to be what gasoline costs elsewhere in smaller units? I do not know. Probably I am just confusing the whole issue.

MR. FRAWLEY: There is no use worrying too much about the other fellow. There is no use worrying too much about Mr. Mayland or Mr. Harvie or the other people who have

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to take the Imperial's price. Because Mr. Halverson to-morrow morning could drop these prices of gasoline another cent, and what would seem like a horrible suggestion coming from me is just - and one that would be resisted - has just got to be accepted by the competing companies, until that gets to the punitive stage. Until it gets to where it is punitive. Now, referring to what Mr. Halverson did in October, if Mr. Halverson after two or three months thought that was not doing its job, that shift in October, and so he changed it again, the other companies would just have to follow or lose business. Seemingly, according to Dr. Frey, it is quite wrong for me to suggest it should be arbitrarily done. That is something we have to consider.

MR. COTTLE: There is another thought came to me on that. If the reason for doing that, perhaps this should go in, is the fairness or unfairness to the other company, then would we not have to consider the other company's position? Now, Mr. Halverson has another investment in plants that have been scrapped by a change in the source of crude, as has the B. A. The B. A. has a plant down in Coutts, which is perfectly capable of being used but due to Turner Valley being the source it is sitting there idle.

(Page 17,374 follows.)

Now to be fair to B. A. we should perhaps include in Mr. Halverson's investment and Mr. LeSueur's investment in the refinery something for the unused properties of Mr. Bronsden and his plant, other things of that kind, and you would have to survey the whole field from that point of view.

THE CHAIRMAN: The only reason, of course, being that Mr. Frawley does not discuss the operations of other companies, is for the reasons you have given, it is impractical but so far as ---

MR. FRAWLEY: Yes, the ideal thing would be to survey them all if we knew as much about them as we know about the Imperial.

THE CHAIRMAN: If you were able to deal with the British American that is one of the things you would have to speak about, the plant, any plant of theirs which has been put into the discard.

MR. FRAWLEY: Yes. Let us just be frank, if it was the British American that happened to be this Company, in other words, if the Imperial had a plant at Coutts which had been thrown into the discard ----

THE CHAIRMAN: Yes.

MR. COTTLE: The Maple Leaf.

MR. FRAWLEY: The Maple Leaf is really there but they have taken the Maple Leaf and kept it separate. I would be just as shocked to have Mr. Harvie say that he wanted a rate of return on that half section of land down at Coutts where he had his refinery or perhaps on the value of some disconnected pipes and tubes which were there.

MR. HARVIE: I will be very glad to shock you, Mr. Frawley, if that is the case because I do expect a rate of return on that past investment but, as I have said already, it would not be the same rate of return but that there should be some allowance in the general rate of return allowed to give some leeway to look after that investment and that has been our contention from start to finish.

THE CHAIRMAN: Mr. Cottle, supposing you were concerned from the standpoint of the shareholders of a company, - forgetting our immediate problem at the moment, - but they were engaged in the manufacturing business and 10% of that capital investment, the original capital investment had become obsolete, or a new machine, perhaps which would have been taken care of by amortization under your direction before it became obsolete, but let us say you have a brand new machine that overnight has become useless becauee of some new invention that you might have ---

MR. COTTLE: And ceased to be used.

THE CHAIRMAN: Yes, ceases to be used and useful, how do you deal with it in your accounts?

MR. COTTLE: Well, if a particular machine becomes useless it then becomes either a capital loss or an operating loss. You would have to give me a specific example before I could answer you specifically. Take for instance Mr. Harvie's plant in Coutts, to the extent that that plant had not been fully amortized on the books of the company ----

THE CHAIRMAN: Yes.

MR. COTTLE: The company would have to show a capital loss.

THE CHAIRMAN: A capital loss?

MR. COTTLE: Yes.

THE CHAIRMAN: Then in its report to its shareholders of what it had earned over the year, how is that capital loss reflected?

MR. COTTLE: In the report over the years or the report for the year in which it becomes a loss?

THE CHAIRMAN: In both.

MR. COTTLE: In the year in which it became a loss it would be reported as a separate item under " capital loss". If the profits over the years were being examined then that capital loss would be included in the total loss over the years.

THE CHAIRMAN: Yes, and when you are telling the shareholders the rate of return on their money which they are getting, do you take into account that capital loss; supposing the shareholders had put up a million dollars, one hundred thousand dollars of which has been thrown into the junk pile. Now when the individual shareholders are talking about what they get on their money, they are getting a dividend, are they not, from the profits?

MR. COTTLE: That is right.

THE CHAIRMAN: Is that dividend not reduced by the amount of that capital loss?

MR. COTTLE: Not necessarily.

THE CHAIRMAN: Depending on how much money they made and everything but is it not reduced, no matter how much they made, because they have suffered a capital loss of $100,000.00, would they not have made that much if they had not lost that $100,000.00?

MR. COTTLE: Well dividends are not necessarily paid out of the earnings each year. There is not a necessary tie-up between profits and dividends.

THE CHAIRMAN: Yes, I think that is perhaps an unhappy illustration. Take the individual who has put a million dollars into an operation and owing to a new invention he has had to buy a new machine. He has had to further pay out another $100,000.00 for a new machine and his old machine is a capital loss. He has had to buy another. When he is figuring what return he has had on his money in the oil venture, if it be oil that he went into, does he ignore that $100,000.00 as though it had come from God?

MR. COTTLE: Well it would depend again on the circumstances. If it was something which you would regard in the nature of a catastrophe, you look at it as a capital loss, and that is just too bad but if it is something which happens in the ordinary course of events, a machine is always wearing out, you regard it as an operating expense; over the long-run it is, of course, definitely an expense. The distinction between capital and income is merely for the purpose of trying to find out what you did in any one specific year. Now looking at it from the standpoint of a term of years capital losses resolve themselves into expenses.

THE CHAIRMAN: Yes, he is going to say, "I put up my original million and I put up $100,000.00 more for another machine", is he not?

MR. COTTLE: Yes.

THE CHAIRMAN: That makes a million one hundred thousand dollars. At the end of this fifth year he says,

"I have only got all told so much money out of this business, therefore, I have only had a return of a certain percent per year", would that not be proper reasoning?

MR. COTTLE: Yes, that would be proper.

THE CHAIRMAN: I mean it may not be how one might put it in his books, is that not the bald fact?

MR. COTTLE: Yes, I think it is the bald fact, I mean the money has gone, that is all there is to that. It does not matter in the final analysis whether you call it a capital loss or a loss in the operations of that year, it is money which you are not going to get.

THE CHAIRMAN: And it all comes back, if he has his money in the business, "What have I had in the last five years out of this"?

MR. COTTLE: Let us go back to the British American plant at Coutts, if the British American Oil Company had foreseen five years ago what was going to happen last year, then they would have amortized their plant so that it would have been extinguished by last year and in which case this problem would not arise; nevertheless it does arise, and the only reason that there is a capital loss is that there is still an unamortized value of the plant on your books..

MR. HARVIE: And it is for that reason and these contingencies that Mr. Bronsden says, and I think Dr. Brown too,did, that that type of industry requires a high rate of return, compared with other industries, and suggested 15%.

THE CHAIRMAN: You say what happened to you at Coutts could have happened anywhere?

MR. HARVIE: Exactly.

MR. NOLAN: And may happen to us in Turner

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Valley, sir, if our learned friend succeeds in putting through his suggestions.

THE CHAIRMAN: Mr. Frawley, I am afraid I have taken a great deal of your time exposing my ignorance on these matters.

MR. FRAWLEY: It is very complex.

(The Hearing was here adjourned to be resumed at 10.30 A. M. 22nd December, 1939.)

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J. J. FRAWLEY

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IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 22nd, 1939

VOLUME 155

FINAL ARGUMENT

BOX. 84

MR. FRAWLEY: Mr. Chairman, yesterday I was about to discuss the rate of return which the Imperial's profit in 1938 showed of $389,080.89, and how it was made or constituted.

Well discussing it this morning with Mr. Cottle, these notes were all prepared on the basis of what the situation was before the reduction of the 25th of October or for that matter without taking into account the slight reduction made on the 24th of July last. Now we were aware of that and we were also aware that the reductions would have to be brought to your attention and we thought probably by Mr. Cottle in answer to your queries after we adjourned because the figures are there and merely have to be adjusted but Mr. Nolan, and I think quite properly, has brought to your attention and made a point of the fact that the reduction in 1939, the reductions in prices in 1939, computed back to 1938 as we have been doing throughout, and the Commission understands, amounts to $141,000 of a difference in the profit position which we presented to you and that is quite true, quite true, and we have been stopping now and re-arranging all of our figures and that incidentally is a matter of some delay. You will recall yesterday you asked Mr. Cottle if he could take the two Exhibits "733" and "734" and rearrange them in the light, and with adjustments required, made necessary by the reductions in July and October of Mr. Halverson's prices and he said "Yes", he could do that. Now that is quite a good thing to do

and I was wondering now if I could,-rather than going into,-I can do one of two things, give you the figures as they are from the record without the cut and then let Mr. Cottle adjust them, either in a separate statement or I need not do that, I could simply state in passing, simply state for your information that Mr. Cottle will prepare for your information and I am sure that there will be no objection in the world by any of my friends, because this is a mere matter of altering the profit position in accordance with the $141,000. That would seem to me to be a sensible thing and not only would it shorten somewhat what I have to say, because it does not serve any purpose for me to go on talking about 10.57%, when it is not 10.57%; when it is something quite different and then when I talk, when I say to you, when I want to present to you what 6% would do, what 6%, reduced to 6% what it would do, reduced to 8% what it would do, those things will all follow it seems to me more clearly if Mr. Cottle gives you a substituted statement. Now I wonder if I have made myself clear, Mr. Chairman.

THE CHAIRMAN: Perfectly. It is a matter of time. Do you know what Mr. Cottle's result will be and will you be able to argue from them.

MR. COTTLE: Yes, I can state to you right now what they will be, right now, what the 6% would do, what reductions are required in reducing to 6%.

THE CHAIRMAN: Before we start reducing we want to know what the position is now.

MR. FRAWLEY: Yes, I will give you the figure right now, sir, what the profits, what the profits,not the $389,080.00, not as they were when my notes were prepared but as they would be estimated, taking away from them the $141,000 which is required because of the drop in the two prices, the two drops in price I should say.

Well Mr. Cottle tells me again it is not such a tremendous job, the Exhibit---

THE CHAIRMAN: It makes your argumemt more intelligent if you can say "These are the figures".

MR. FRAWLEY: Yes it certainly does.

THE CHAIRMAN: I mean you are going to lead to some conclusion from all this.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And the test of the soundness of which is one of the steps and they should be subject to the criticism of the other Counsel.

MR. FRAWLEY: I wonder, Mr. Cottle, we have it very carefully set out----

THE CHAIRMAN: You might go to some other subject and let Mr. Cottle go away with it,

MR. COTTLE: The revised Exhibits which I am going to introduce are in the course of being typed now. I may be able to introduce the Exhibits that you asked me for yesterday either this afternoon or tomorrow morning at the very latest. Now once they are in, that is a simple matter to go through the procedure that Mr. Frawley has in mind to explain the steps involved in making the reduction.

MR. FRAWLEY: It means a reduction of a lot of material figures. Now it is a puzzle to know just how best to approach it. I think I had better just state now what the conclusion is, what the conclusion is and not give you any of the steps and how and why we have arrived at that conclusion, then go on to something else and come back, I think it will fit in all right.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Come back to what the precise figures and the various steps are when this material is finished.

THE CHAIRMAN: And if it will not throw you out of your argument, would it not do to state your conclusions and go on with your reasoning from those conclusions, I mean they are conclusions in point of fact.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Go on with your reasoning from there and when these Exhibits are ready, you can say all we will have to do is to put them in to support your factual conclusions.

MR. FRAWLEY: Quite so and I think I could do that.

THE CHAIRMAN: Then it does not throw you out in your argument.

Mr. Frawley, as Major Lipsett suggests when you are taking into account the drop in price----

MR. FRAWLEY: Let me interrupt you there, I was quite wrong, quite wrong, Mr. Cottle has taken into account those price cuts but he has not taken

into account the kind contribution from Mr. Nolan which came from Toronto in regard to a pesky little item of freight, some $14,000 and that is what is causing, some $12,000----

MR. COTTLE: You see, sir, I am going to prepare a new Exhibit "652" and I am going to prepare a new list, and Mr. Frawley's notes are prepared on the basis of computing the reduction in prices in July and October amounting to a change in the net earnings of $100,492.53. Now Mr. Nolan's $141,000 change in earnings includes something in addition to the change in price, it includes an increase in the freight expense of $12,650, so that his $141,000 becomes, after deducting income tax, $110,580.73, making a difference between what the revised figures will be and Mr. Frawley's figures, of about $10,000. Now I thought it well that Mr. Frawley not puting the first figures he had in because we would have some confusion in the record inasmuch as I am going to submit a new Exhibit "652" and revise the other Exhibits as well to give you the up-to-date picture and also take into account the change which has not yet occurred in the refinery, that is the 2½¢ increase in the laid-down cost of crude, I thought it well to wait until I got the revised Exhibits in and then make Mr. Frawley's notes in accordance with the revised figures.

THE CHAIRMAN: Is there not another thing you would have to consider and that is the increased throughput? Dr. Brown has been at some pains to tell us what the increased throughput does to the cost of re-

fining.

MR. COTTLE: Well that is taken into consideration in this, by Mr. Frawley, in taking Dr. Brown's 5500 barrel plant as the basis for predicating his remarks on what the price should be. There is no basis, there is no possible basis of taking into consideration the effect of increased sales in the marketing department.

THE CHAIRMAN: No.

MR. FRAWLEY: You go backwards.

MR. COTTLE: Yes, we have to take the 1938 performance.

THE CHAIRMAN: Dr. Brown gave us the illustration, as you remember, in his evidence as to what the Imperial plant did. I do not remember that page but showed that an increase in the throughput in the refinery,-which was to me most surprising an extra-ordinary difference in the cost per barrel of refining.

MR. NOLAN: There was an Exhibit, Mr. Chairman, which showed over the ten year period what volume did to cost of manufacturing. It is Exhibit "310".

MR. FRAWLEY: Oh yes, Exhibit "310" shows historically what those costs per barrel, refining cost per barrel was and 1938 showed up very favorably compared to the others because of larger volume.

MR. NOLAN: You will remember that Dr. Brown took away the British American throughput from the present throughput and got a figure which corresponded

more or less accurately with the 1938 figures and that showed as he presented the costs, that at the present time we are not far afield from the actual costs in 1937 when the throughput was about the same.

MR. FRAWLEY: Well you see, Mr. Chairman, what I was about to do was to come down to some suggested or submitted changes in Calgary tank waggon prices. Now that is what seems to me I cannot very intelligently do.

MAJOR LIPSETT: Your figures, Mr. Frawley now, are we right in taking that they do reflect this $141,000 less the $12,000?

MR. FRAWLEY: Exactly. Now Mr. Cottle has just said if you give him a five minutes' adjournment he will change my figures completely to enable me to continue, to pursue what I am trying to do.

THE CHAIRMAN: I think that would be better than to go on now.

MR. FRAWLEY: Yes I think it would because it removes any uncertainty.

(An adjournment of five minutes was here taken).

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MR. FRAWLEY: The situation with regard to the 1938 operation, marketing operation of the Imperial is that the rate of return of 10.57% was made, not taking into account the reductions made on the 24th of July in third structure and on the 25th of October in Esso and 3 Star. Now that reduction was changed, as I will later develop, but let me now make the submission to the Commission that in my submission the 10.57% is too great a rate of return to be allowed this industry. I make the same submissions, and I merely make them in passing and go on to the analysis. I make the same submission. I call the attention of the Commission to the same considerations as were brought to your attention in connection with refining, that is, what the company did in its all-Canada operations in 1938.

THE CHAIRMAN: Just let me get this down so I understand it.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Are you able to say at this minute, having regard to the deductions made, to which you have alluded, what the rate of return on refining was?

MR. FRAWLEY: Marketing, you mean.

THE CHAIRMAN: Both. You told us about refining.

MR. FRAWLEY: There were not any reductions in refining, at the refinery door.

THE CHAIRMAN: You are taking 1938?

MR. FRAWLEY: Yes, as we must.

THE CHAIRMAN: And you say that the refining return was-----

MR. FRAWLEY: Of course, I say the refining return was 12.8----

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THE CHAIRMAN: Is that 14.19?

MR. FRAWLEY: Acto in 1938, as appears on page 1 of the folder, in Exhibit "732", Dr. Brown's figures, it was 12.8.

MR. NOLAN: I have not got that. It is 12.6.

MR. FRAWLEY: 12.8 is right. 12.8 was Dr. Brown's figure and 12.68 is the corrected figure , corrected by Mr. Cottle. That is excluding the profit on the British American run. 12.68.

THE CHAIRMAN: That is the refining return.

MR. FRAWLEY: Perhaps if you mark right down there, I am not using that in my submission. I am using Item Estimate No. 4, so you will at least have my submission. I am using Estimate No. 4, what the Imperial will do with the new plant and the profit I am shooting at, the rate of return I am shooting at is 15.02.

THE CHAIRMAN: Which you said was in reality 14.19.

MR. COTTLE: If the price of crude is increased to 2½ cents higher than it was on July 3rd.

MR. FRAWLEY: That is quite right. We expect you to take 14.19 because of the actual fact of the increase of 2½ cents.

MR. COTTLE: No, it is not an actual fact.

MR. FRAWLEY: Well, it will be.

MR. NOLAN: No, no.

MR. FRAWLEY: All right. 15.02 will become 14.19 if the Calgary refinery's laid down cost is increased 2½ cents.

THE CHAIRMAN: Which we have every reason to

suppose it must be because they say they are not taking that out of the public.

MR. FRAWLEY: That is right.

THE CHAIRMAN: They are absorbing it.

MR. FRAWLEY: That is right.

THE CHAIRMAN: So if we accept your view that the 1940 operation is to be accepted as disclosed in page 4 of Exhibit "732", we get 14.19% return on the refinery?

MR. FRAWLEY: That is right.

THE CHAIRMAN: On the capital invested in connection with the refining operation.

MR. FRAWLEY: That is right.

THE CHAIRMAN: No question about that. All right.

MR. FRAWLEY: Then I have already covered what is involved in reducing the 14.19% to 10%, 8% and 6%. We have done that. And that is where my .35 cents-----

MR.COMMISSIONER LIPSETT: Just wait till we get the original fact correct. Is this 14.19, does that depend on the price of crude going up to $1.28?

MR. FRAWLEY: All it depends on, Sir, is in some fashion increasing the laid down cost by 2½ cents. Whether it is all on crude or on pipe line or what not, I am making the assumption that the net result to the refinery, however much the price of crude itself may be increased, the net result to the refinery in East Calgary will be 2½ cents more.

THE CHAIRMAN: That is the loading charge.

MR. FRAWLEY: It is the difference. That part of it will be all exceedingly clear when I make my final submission with regard to the passing on of the crude price. But for the moment I cannot do any more than ask

you to assume that the increased laid down cost at the refinery door in East Calgary for crude will be 2½ cents more.

MR. COMMISSIONER LIPSETT: At the present moment that has not taken place?

MR. FRAWLEY: No, it has not.

MR. COMMISSIONER LIPSETT: At the present moment the correct figure to use is 15.2?

MR. COTTLE: No, neither price is correct. The 14.19 is predicated on the laid down cost being 2½ cents more than it was prior to July 3rd, which will be 8 cents more than it is now, to-day.

MR. COMMISSIONER LIPSETT: Does that depend on the price of crude going up to $1.28. That 2½ cents more does not take place unless the price of crude goes up to $1.28?

MR. COTTLE: Or, as Mr. Frawley says, some other change might be recommended, but the final result will be the same as if the price of crude is made $1.28 and the pipe line is 9½.

MR. COMMISSIONER LIPSETT: On to this figure, on your estimate as of to-day's price of crude, your figure is 15.02?

MR. COTTLE: No, on the figure prior to July 3rd. Because there is a hiatus between July 3rd and to-day, in which the refineries have profited by 5½ cents.

MR. COMMISSIONER LIPSETT: Is this correct, Mr. Cottle, just to get a starting point, that on your page 4, which Mr. Frawley is submitting for 1940, we should take 15.02 on to-day's price of crude?

MR. COTTLE: No, not on to-day's price of crude. On to-day's pipe line. On to-day's price of crude and the 15 cent pipe line, that is what the 15.02 is. With the 15 cent

pipe line.

MR. COMMISSIONER LIPSETT: So that the rate of return to-day, your estimate for 1940 of the rate of return based on to-day's price of crude is more than 15.02?

MR. COTTLE: It would be if there is no change at all in either the pipe line rate or to-day's price of crude. The rate of return would certainly be more than 15.02, but no calculations were made on that basis, for the reason it was never assumed that the condition that we have to-day and had yesterday and had on July 4th would endure.

MR. COMMISSIONER LIPSETT: This 15.02 is based on the 15 cent pipe line rate and the present price of crude?

MR. COTTLE: Yes. The 14.19 is based on the laid down cost at the refinery of $1.37\frac{1}{2}$ compared with $1.35, which it was before July 3rd.

MR. FRAWLEY: As I have said, Mr. Chairman, it is understood now I have taken the 14.19 and shown you what that figure becomes in refinery door prices when----or rather, I have taken the 14.19 and then I have substituted for 14.19, 6%, 8% and 10%, and I have shown you what change in refinery door prices is required. And that was, using 8%, .52 cents, or roughly half a cent; using 10%, .35 cents, or roughly one-third of a cent, and using 6%, .69 cents. That is the situation as we leave the refinery door and go into marketing. Is that clear?

THE CHAIRMAN: Yes. But what I want to know ultimately is what this company made.

MR. FRAWLEY: Made?

THE CHAIRMAN: What this company's return was. It is doing more operations than one. I want it separately just as you have it, but for my own information I would like

to know what the Imperial Company's return on operationss in this Province was, on the capital.

MR. FRAWLEY: Mr. Cottle says we cannot tell you what the total profit was on their Alberta business because you take the refinery alone, a great deal of the gasoline made, or some of the gasoline made in that refinery went out into other Provinces. So subject to that limitation, of course, we can tell you.

THE CHAIRMAN: Went out to other Provinces?

MR. FRAWLEY: Went out into Saskatchewan and Manitoba.

MR. COTTLE: What I mean is this, you cannot take the refinery profit and add it on to the marketing profit and add the two investments together to show how much the rate of return was in the Province of Alberta, because that just is not so. That is why we divide it into two compartments. We take the marketing department. That is the profit made on the goods sold in this Province by the marketing department.

MR. FRAWLEY: Wherever the goods came from.

MR. COTTLE: In relation to the investment in this Province in marketing. Then we come to refining and we are not concerned with the boundaries of the Province. We are concerned with the total operations of the plant regardless of where the goods went to. About two-thirds of the total gasoline made in the refinery, of course, stayed in the Province. The rest of it went outside the Province. The whole profit on the refinery is, the historical situation is that they made 12.66% on their refining investment, regardless of where the gasoline was sold.

THE CHAIRMAN: What does it matter whether it was sold in the Province or not so long as the assets in this Province produced that?

MR. FRAWLEY: The 12.68%, that is the figure, I think, you are looking for.

THE CHAIRMAN: That is refining.

MR. FRAWLEY: Refining.

MR. COTTLE: That is what they did make.

THE CHAIRMAN: 12. what?

MR. COTTLE: 12.68.

MR. FRAWLEY: That is what they did make in 1938.

MR. COTTLE: Dr. Brown says they are going to make---the plant that that was made on no longer exists.

MR. FRAWLEY: And that is why we say that we should go to Dr. Brown's estimate of the 1940 picture.

THE CHAIRMAN: All right. Wherever the goods went in the 1940 picture, there is a rate of return, allowing for this 2½ cents, of 14.19?

MR. COTTLE: That is right, Sir.

THE CHAIRMAN: On refining?

MR. FRAWLEY: Yes.

THE CHAIRMAN: You are going to give us the rate of return on marketing?

MR. FRAWLEY: Yes.

THE CHAIRMAN: On the same picture?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Do you mean to say you are unable to tell me what the rate of return is to the company who is performing both operations?

MR. COTTLE: It would be a very misleading

picture, Sir. It would be averaging two things which should not be averaged.

MR. FRAWLEY: We had a profit at the refinery door on a gallon of gasoline that the refinery sells to Mr. Halverson, we add to that profit the profit that Mr. Halverson makes on that gallon of gasoline while he has it in his handling.

MR. COTTLE: That is quite a different story to adding the total profit on all goods manufactured in the Calgary refinery to the profit made on that operation on the goods which were sold in Alberta.

THE CHAIRMAN: Mr. Cottle, I am a shareholder of Imperial Oil, let us say. I want to know what return this company has made on this capital investment. I do not care if it is divided into forty departments for the purposes of carrying on its business.

MR. COTTLE: Surely you are not concerned with adding one department to another department when there is a third department to be added to get the proper picture. In order to get the full picture you would have to get the Calgary refining investment and profit and the marketing investment and profit and the Alberta marketing investment and profit and the Saskatchewan marketing investment and profit and the British Columbia marketing investment and profit, and we have not got these figures. The only other way you can do it is to take that portion of the Calgary refinery investment and arbitrarily take a slice of it and say "This is Alberta," and take a slice of the profit and say "This is Alberta" and then add that to your Alberta marketing operations. You see, in the one case we are making

a geographical department. In the other case we are making a plant profit. To add the geographical profit to the plant profit will give you a figure which might be quite misleading.

MR. FRAWLEY: Nobody has attempted to go to the Calgary refinery and, as you say, take a slice of that and say that is the capital investment that is used to make the goods that go into Saskatchewan. That is a thing that has not been done, of course.

MR. COTTLE: That is right.

MR. HARVIE: If you take 30%, that does go into Saskatchewan approximately, and take that off the throughput in Alberta, it would considerably increase the refining cost in Alberta.

MR. COTTLE: If those goods were not refined but you cannot destroy the fact, of course. The only way you can get the real total picture would be to take the Western Canada operations as a unit and take the two refineries in the three Provinces and then add them together and make some allowance for the goods which came from Sarnia and Ioco and then the shareholders would get a proper picture. Without that the shareholders, in my opinion, cannot possibly get a proper picture of the company's operation in Alberta by adding the Calgary refining to the Alberta marketing department. Because the two are just not connected that way. If all the Calgary refinery did was to make gasoline for the Province of Alberta that would be a different story, of course.

THE CHAIRMAN: Surely that provides you with difficulties, does it not, Mr. Frawley? Are you not concerned that this refinery in Alberta, we will say, is making gasoline for Alberta and for parts of Saskatchewan?

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MR. FRAWLEY: Yes, and a little bit of British Columbia.

THE CHAIRMAN: You do not know a thing about British Columbia or Saskatchewan?

MR. FRAWLEY: We do not know-----

THE CHAIRMAN: But you say the price of gasoline in Alberta should come down?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Even though this very refinery has lost money in Saskatchewan and British Columbia and is doing a proper refining and marketing business in shipping to those places?

MR. FRAWLEY: Let me see if I understand you. In what way can it be said that it works a disadvantage to the company, if you do not know?

THE CHAIRMAN: You say they make a rate of return of 14.19 on the 1940 operation?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Supposing we had the picture for Saskatchewan and Eastern British Columbia, might not that well reduce that 14.19 or increase it?

MR. COTTLE: No, the 14.19 is based on the average of everything and on the assumption, of course, that the goods sold in Saskatchewan are sold at not less than Alberta.

THE CHAIRMAN: You are quite right. Your 14.19, that was refining. Let us have marketing some time. We are going to have a rate of return on that. What was that?

MR. FRAWLEY: That was 10.57.

MR. NOLAN: Now, was it 10.57?

J. J. Frawley, K. C.

MR. COTTLE: All you can say, it would have been 10.57.

MR. NOLAN: Yes, it would have been 10.57 if the business done in 1938 was on the prices in existence at that time.

MR. COTTLE: I think you can say it was very close to the same figure, Mr. Nolan, because in Exhibit "281" you will see that the reduction in inventories just about offset the reductions in prices.

MR. NOLAN: Never mind. It is not the proper position now, and I do not know why we have wasted so much time talking about it because it is not an actual figure at the present price. Surely if I am to be judged I am to be judged on present prices.

MR. FRAWLEY: Well, I am going to see you are judged on that. My submission will permit of you being judged.

THE CHAIRMAN: What is your comparable figure to the 14.19, for marketing?

MR. COTTLE: After making the adjustments it is 7.56%. After making deductions for the price drop in July and the drop in October.

THE CHAIRMAN: Am I not right in thinking that this marketing body might have lost money or have made money over and above the 7.6 rate of return in respect of that part of Saskatchewan and that part of Eastern British Columbia. Could not that figure be affected one way or the other?

MR. COTTLE: No, Sir, because the 7.56 is the profit on the marketing that was done in Alberta, and that is quite separate from the marketing that was done in

Saskatchewan.

THE CHAIRMAN: Well, I know. If I owned that refinery, you see, I would not be happy because I had made 7.56 in Alberta if I also was serving Saskatchewan and British Columbia and I suffered a loss equal to that. It was my refinery.

MR. COTTLE: That is regarding the marketing department as part of this refinery. But it is not any more so than that part of the refinery is part of the Alberta marketing.

MR. COMMISSIONER LIPSETT: Would it not be fair to consider it as part of the refinery from this point of view, Mr. Cottle, that if there was in fact a loss being made in marketing in Saskatchewan and in British Columbia that the marketing department might go out of existence, in which case your throughput in the refinery would be correspondingly reduced?

MR. COTTLE: That is possible and that is why the all-Canadian picture is not the same as the Alberta picture. They might have lost money in Ontario, for all we know, or they might have made a lot of money in Ontario, for all we know.

MR. COMMISSIONER LIPSETT: That is different. That does not affect the Calgary refinery.

MR. COTTLE: No, but the Province of Alberta is affected by Sarnia because the Province of Alberta gets goods from Sarnia.

MR. COMMISSIONER LIPSETT: As I see the effect of it, supposing, for quite a hypothetical case, there was a loss made in marketing in British Columbia and Saskatchewan sufficient to drive the company out of that market, that

would again reflect on the refinery with the lesser throughput and substantially increase cost of refining.

MR. COTTLE: That is quite true. If the Imperial Oil pulled out of Saskatchewan completely it would certainly adversely affect the Calgary refinery. No doubt about that.

MR. COMMISSIONER LIPSETT: What you say is this, that in the absence of evidence that any such thing as that was happening, or likely to, we do not need to consider it.

MR. COTTLE: I do not see how you can very well. It is fair to assume the Imperial Oil is still going to do business in the other Provinces. We are concerned with how profitably they do business in this Province in the best way that we can. Now, if the Imperial Oil say set up separate companies in each of the Provinces we might be able to get an exact division of their total Canadian business as it pertains to the Province of Alberta. All that we can do is to consider the goods that they sell in Alberta and see how much money they make on them.

MR. COMMISSIONER LIPSETT: In the absence of any suggestion or evidence that they lost money in these other provinces, we may assume they are making as much, or at least a reasonable rate of return in those provinces.

MR. COTTLE: I do not think we need to assume that they did at all. That they are making or losing money in the other provinces. I do not think we are concerned with what they are doing in the other provinces so long as they continue to do our refining. If they still do business and use our refinery-----

MR. COMMISSIONER LIPSETT: But if they were losing money in

other provinces they might easily say "We are not going to continue marketing."

MR. COTTLE: That is possible.

THE CHAIRMAN: I can understand why you would be concerned with knowing what the Alberta refinery did and say you did not have to examine the whole Canadian picture. There is an Alberta oil field and an Alberta refinery using this oil and selling it. Now, they are not selling that oil in Halifax. They are not selling it in Montreal and they are not selling it east of the Line, that we know of. I think we would be concerned if we were examining the Alberta picture to know what that Alberta refinery, having refined Alberta oil, did with it. Where it went. What it cost, and keep the Alberta refinery as a separate thing.

MR. FRAWLEY: You cannot, Sir. Perhaps we should have gone out of the Province of Alberta into the Province of Saskatchewan - but that line has never been drawn at all, the line which is the extreme easterly limit of shipments of products from the Alberta refinery.

THE CHAIRMAN: We are predicating everything on the 1940 operation and we have been told what the economic line is for that.

MR. FRAWLEY: No, that is Regina. We have never had this line.

THE CHAIRMAN: You are quite right. That is Regina.

MR. COTTLE: As far as I understand it, it does not make any difference to Mr. Moore where his gasoline from his refinery goes, whether it goes to Swift Current in Saskatchewan or to British Columbia or stays in Alberta

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Because this refinery serves an economic area, the prices of which are Calgary plus freight with the exception of the fringe in Southern Alberta and perhaps in Southern Saksatchewan but the price in all this economic territory is Calgary plus freight and the performance we have shown on the Exhibits which resulted in the refinery profit of the 10.68% or 12.68% rather are based on the Calgary tank wagon price less a certain spread.

THE CHAIRMAN: Calgary plus freight is all right; if you are looking at it that way but should you not be only concerned with the refinery operation and not marketing at all.

MR. COTTLE: Yes, and we are, sir, and that is why we have divided it that way.

THE CHAIRMAN: You are now taking into account what they made on marketing.

MR. COTTLE: No, sir, this is a separate company. The only way you can regard this is to regard Imperial Oil (a) as a refiner and Imperial Oil (b) as a marketer and keep them absolutely distinct and that is why we have taken the jobbers' price as the basis but if you take the Refining Department, now when we are looking at the Refining Exhibits we are looking at the Imperial Oil as a refiner in this province and nothing else and selling its goods ---

MR. FRAWLEY: To Mr. Halverson he says.

MR. COTTLE: Or to anybody to be sold in Saskatchewan, to the North Star, to anybody.

THE CHAIRMAN: That is quite understandable if you saw that off there.

MR. COTTLE: That is what we have done, sir.

J. J. Frawley, K. C.

THE CHAIRMAN: But Mr. Frawley goes another step and he says, "Now I want you to look at the marketing picture", is that not it?

MR. FRAWLEY: That is quite so.

THE CHAIRMAN: Now he says they have made a profit which is unreasonable, that may not be his submission but he says there is some profit made in marketing.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Which you should take into account together with the profit made in refining.

MR. COTTLE: No, he doesn't say that, sir.

MR. FRAWLEY: No.

MR. COTTLE: No, he says, "You are a separate company with a separate investment," and "how much money did you make in that with relation to the marketing department."

THE CHAIRMAN: But he is going to say that in considering that, "although I know you, ar Alberta Company, did some marketing in two other provinces, I am going to ignore it," is he not? It is a separate marketing company, we will say, the refinery has sold to the marketing company and the refiner as such does not care a tuppence where that oil went, it is the price at its refinery door.

MR. COTTLE: That is right.

THE CHAIRMAN: And so it can be thought of as a purely Alberta operation.

MR. COTTLE: Yes, and not refining at all, buying gasoline.

MR. FRAWLEY: Buying gasoline from the Calgary refinery; buying marvelube from the Sarnia refinery and so on, buying, that is Mr. Halverson's marketing department.

J. J. Frawley, K. C.

THE CHAIRMAN: The marketing department is buying but you say the refining department has the price at the refinery door.

MR. FRAWLEY: Yes.

THE CHAIRMAN: So you saw it off without difficulty. It does not care where its goods go. They can take them to India so far as the refinery is concerned.

MR. FRAWLEY: That is right.

MR. COTTLE: Yes, that is right.

THE CHAIRMAN: But I am putting it to you that your suggestion is that we should do something more than with the rate of return on refining when we think of this company as a company and we should make a recommendation which affects this company as a company, you are going to ask us to think of this marketing in Alberta and you are going to tell us it made a profit.

MR. FRAWLEY: I say this, Mr. Halverson made a profit of so much in his marketing, using the price at which he bought it from Mr. Moore, he made so much money but Mr. Moore made so much money in selling it to Mr. Halverson and that is the only place I add those two things together and I say that the company with respect to one gallon of gasoline marketed in Alberta made two profits: (a) a profit made in refining and (b) a profit made in selling it and that is the only time I tie them up, is that not right?

MR. COTTLE: That is right.

THE CHAIRMAN: And all I am querying is the soundness of your submission with respect to the marketing. You think of them as a separate company in refining and in marketing and I am querying whether or not those figures would

be apt at all if it were not for the marketing company that is taking that product away from them at a price; without the marketing company or division they would not have the throughput they have.

MR. FRAWLEY: No.

THE CHAIRMAN: And if they did not have the throughput they have, as Major Lipsett has said, the refining costs would be very, very much higher. Dr. Brown has told us that in no uncertain terms. I do not remember the Exhibit that Mr. Nolan referred to but I do remember Dr. Brown's evidence very well and it shocked me.

MR. FRAWLEY: Perhaps you could put it this way, that the Calgary refinery is in the fortunate position at the moment of having three marketing divisions to sell to; let us understand it in that language, that is it.

THE CHAIRMAN: That is really what you are saying and you are going to ignore two of them.

MR. FRAWLEY: That Mr. Moore is selling, is this right, Mr. Cottle, that the Calgary refinery is selling to three marketing divisions of Imperial Oil, the British Columbia division, Mr. Halverson, well Mr. Stevens, the Alberta division and somebody over in the Saskatchewan division, in part, near a small strip around Swift Current. Now if, you think that is a circumstance which throws us out of gear that at least is the correct way of putting it, is that right Mr. Cottle?

MR. COTTLE: Yes, I think we are looking at it ---

THE CHAIRMAN: That is the way you approach it.

MR. FRAWLEY: That is all we are doing.

MR. COTTLE: First of all we look at Mr. Moore. Now all the way through as we have said, we keep the refining

department separate from the marketing department. We went to great pains to sever them so that we could get an intelligent look at them.

THE CHAIRMAN: All right.

MR. COTTLE: We take a look at Mr. Moore as one person as a refiner and we find out what is the reasonable price to assume as being his refinery door tank car price to everybody, including Mr. Halverson and in doing that we find out what he gets from the North Star and all the other jobbers and we say, "That is the refinery price from which to make our assumptions." Now looking at Mr. Moore, getting his money from anybody, whether it is Mr. Halverson or Mr. Stevens or the North Star or whoever it is, we find Mr. Moore does such and such with it, he makes so much money and we have great volumes of Exhibits prepared to find just exactly what he did do, in addition to which we have Dr. Brown's estimate No. 4, in which he says he is making 14.19%.

Now just dealing with that alone, Mr. Frawley says that if that return had been, instead of 14.19% only 10%, Mr. Moore's price could come down a little bit; if it was 8% it could come down some more and if it was 10% some more.

Now that price having come down a little bit, we then go and look at Mr. Stevens. Mr. Stevens is the marketer. Now the Exhibits are prepared on Mr. Stevens at 8.66 cents at the refinery for his gasoline but as a result of the introduction of Mr. Moore, we find that should come down say .3 cents and then we look at it, Mr. Stevens' profit, on the proposition of 6% instead of 7.54% or 7.76%, we find that Mr. Stevens could have narrowed his price a little bit

but not only would he narrow his price a little bit but if Mr. Moore narrowed his price you would have the sum of the, two of them and that is the only reason for adding the two together.

THE CHAIRMAN: Sure, you say if Moore comes down as a refiner.

MR. COTTLE: Yes.

THE CHAIRMAN: These marketers should come down coresspondingly because they could sell for less.

MR. COTTLE: Quite.

THE CHAIRMAN: That is very simple but that does not touch my point. I say this marketer, since he happens to be a division of this refinery, supposing the refinery was marketing itself, put it that way?

MR. COTTLE: Then you would have a different situation, sir.

MR. FRAWLEY: How different, in what way different?

MR. COTTLE: You would have a different organization and everything else.

THE CHAIRMAN: I know but at the moment I cannot see that a company because it operates,it carries on its operations in departments ----

MR. FRAWLEY: Mr. Chairman ----

MR. COTTLE: This company does not. We have made this department for this company. This company makes no distinction between the two departments and in order to get this picture we have to departmentalize it. Otherwise we get a hodge-podge.

MR. FRAWLEY: Let me explain this, it is only as a result of Mr. Cottle's work that we have divided this

thing up, right from the very beginning. Mr. Halverson does not pay anything at the refinery door for his gasoline. The gasoline is not even invoiced from the refinery to Mr. Halverson, just so many gallons of gasoline, just a hodge-podge to Mr. McGrat in the Accounting Department in Toronto.

THE CHAIRMAN: I understand that, that Mr. Cottle artificially set this up and from the books of the company he makes a severance which permits of an examination of the two operations separately but all I am querying at the moment is when he is making that severance, can he, in good sense, make a further severance on the basis of which this marketing is done from this one refinery, which is a thing apart for the purposes of this discussion, whether its product is marketed by that Alberta division, unless you are going to subdivide it again into three branches and only look at one of them.

MR. FRAWLEY: What I would like to understand is what you think the defect is in the reasoning or in the submission, it could only be on the proposition of Major Lipsett's but supposing that the marketing, that everything collapsed in Eastern Saskatchewan, I mean Eastern British Columbia and Western Saskatchewan, that is all we have to worry about, just those two strips and then we would have lesser throughputs and the cost would go up. We have to first make that assumption, have we not?

THE CHAIRMAN: Should there be a marketing loss in Saskatchewan, if there could be a marketing profit you could visualize a marketing loss.

MR. FRAWLEY: Yes, and let us follow it through, assuming there was a marketing loss.

THE CHAIRMAN: As I say, if there could be a

marketing profit, there could easily be a marketing loss.

MR. FRAWLEY: Yes, if there was a marketing loss in Saskatchewan how would that get to affect the Calgary refinery, the Calgary Refinery operation, unless they just stopped, stopped and said, "We are going to discontinue selling gasoline in Western Saskatchewan and therefore we are going to discontinue that throughput, decrease that throughput through the refinery," and if all that had been done, the Calgary refinery would be still selling their gasoline at 8.66 cents at the Calgary door. As You say, Mr. Halverson could take it to India if he liked or take it to Western Saskatchewan and lose money on it or keep it in Alberta and make money on it.

THE CHAIRMAN: That does not affect the refinery loss, in the indirect way we have been talking about it.

MR. FRAWLEY: That is right.

THE CHAIRMAN: Are you going to make another submission about marketing?

MR. FRAWLEY: Yes, in Alberta.

THE CHAIRMAN: That their rate of return is too high.

MR. FRAWLEY: Yes, make that submission.

THE CHAIRMAN: Now it is to that I am directing my attention; can you make that submission by the subdivision of your marketing effort into these three provinces, one Alberta, one Saskatchean and one British Columbia.

MR. FRAWLEY: I do not run over into Saskatchewan as a marketer, I do not run over into Saskatchewan at all.

MR. COTTLE: Not at all.

MR. FRAWLEY: We keep this all in the four corners of the Province of Alberta.

J. J. Frawley, K. C.

THE CHAIRMAN: So far as the refinery is concerned?

MR. FRAWLEY: Certainly. The refinery sells to me in Alberta, a marketing branch in Alberta, that man's name is Stevens, we say Stevens, the marketing department; the refining department sells to Stevens and it is Brown in British Columbia and Smith in Saskatchewan, the refining department sells at 8.66 cents to Stevens; now Stevens does not sell a gallon of gasoline outside the geographic limits of Alberta. If it is a hundred yards outside the line it is sold by some gentlemen over in Regina.

THE CHAIRMAN: Yes.

MR. COTTLE: And the cost of selling it is recorded in Regina.

MR. FRAWLEY: That is the Regina marketer, the Saskatchewan marketer but Mr. Stevens does not put his product outside the province of Alberta. That is why we know his business, we know his business quite definitely and it is limited by the geographic limits of Alberta.

MR. COTTLE: And he is not concerned where it comes from; a lot of it comes from Sarnia.

THE CHAIRMAN: I perhaps do not understand that, and you say that the marketing in British Colum ia, yes, in British Columbia and in Saskatchewan is not done by the marketing branch that you are examining into here.

MR. FRAWLEY: Not at all, not at all. That is fine, if that is the problem.

THE CHAIRMAN: That is Alberta.

MR. FRAWLEY: The Company as a marketing division, Mr. Halverson sits in Toronto and he directs the operations of 9 gentlemen, instead of one, in each of the provinces of Canada,

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a gentleman in British Columbia, Mr. Stevens in Alberta and so on, that is the difficulty, there is a geographical division in the company's set up but we are able to follow the Alberta one ----

THE CHAIRMAN: In the company's own set up they have made that clean-cut division.

MR. FRAWLEY: In marketing, that is right, but in refineries, they have the three or four or five refinery areas and they run over provinces, they disregard provincial boundaries in their refining.

MR. COTTLE: No, they do not worry about areas, it is what goes on in the confines of that particular refinery that they are concerned about.

MR. FRAWLEY: Areas do not arise at all.

MAJOR LIPSETT: If you once assume, Mr. Frawley, I do not know why you do, but if you do assume a loss in marketing in either Saskatchewan or British Columbia ---

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Are you not up against this difficulty, that in order to induce a refinery or that marketing branch to continue marketing at a loss, they must get an extra return at the refinery to make it up, if you cut the refinery down to the bone, in other words, would they be justified in continuing on an assumed loss in Saskatchewan.

MR. FRAWLEY: Well, those marketing areas I say would have to stand on their own feet. Mr. Moore would still be entitled to sell his gasoline at the jobber's price, at the established refinery door price and Mr. Halverson could make money on it in Alberta and lose money on it in Western Saskatchewan.

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MAJOR LIPSETT: But would it not be desirable for this refinery and this province, to pay a little extra and give a better return on the refinery here, to encourage the company to sell at a loss in Saskatchewan because otherwise if you reduce the throughput you are going to increase the cost of gasoline in the province, I mean, I do not know why one should assume that loss but if you do?

MR. COTTLE: would that be so, Mr. Commissioner, when the Company tells us that their prices in Alberta are based on competition and they are the highest they can get in any case and that being so it would still be worthwhile perhaps for the refinery to have that additional throughput even if it does involve a marketing loss in Saskatchewan in order to avoid the very serious penalty in reduced throughput at the Calgary refinery which they couldn't get at an increased price.

MAJOR LIPSETT: I understand the submission of Mr. Frawley was that while these prices which they have are the highest they can get under competition, that they should be reduced in the interests of the Alberta public.

MR. COTTLE: Yes, there is that about it and then, of course, there is the converse of the proposition, if there are very, very large profits in Saskatchewan which you could assume just as readily as losses, then it should be submitted on that basis that prices should be a lot lower.

MAJOR LIPSETT: Yes. I say I do not know why one should assume a loss but I do not think that Mr. Frawley can say that he is prepared to assume a loss and say that it does not reflect back on the return that they should get on the Calgary refinery. If one assumes a loss they would have

to get a little more in the refinery to cover that loss.

MR. FRAWLEY: They would have to continue to sell. I take it they continue to sell in Southern Alberta although they cannot successfully buck that Montana competition down there without a loss but, Mr. Chairman, having had explaine to you the precise subdivision of the marketing departments of the company, does that help to clear the matter up?

THE CHAIRMAN: Yes, I understand your point now, I think.

MR. FRAWLEY: That is why I think we can say, we can discuss with perfect confidence what they do in Alberta.

Now my proposition is that 10.57% which is what the profit of $389,080.89 works out at, it has been demonstrated, as I will presently point out, that the 10.57% is in my submission too great a rate of return and all I want to say about that is simply to call your attention to what I said yesterday in connection with marketing, with refining rather, and now might I go at once to figure out for you what this means, take 6%, take 6% as the rate of return and my submission there now is, so there may be no misunderstanding, it is that the recommendation of this Commission should be that the rate of return ranges from a top of 10%, - and I am prepared to say a bottom of 6%, - should be recommended. Now calculations can easily be worked out, I have not worked them all out at at 6, 8 and 10, I mean I have not worked out the whole process but I have worked out one process, which only will take a minute to put into the record ----

THE CHAIRMAN: Marketing now?

MR. FRAWLEY: Marketing now entirely.

THE CHAIRMAN: You said the same about refining.

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MR. FRAWLEY: I said the same respecting the refining, that the Commission should be impressed with the fact that a rate of return should only be allowed which would give the Alberta consumer a price which would be the result of as good competition as exists in the rest of Canada. Now that is my submission and I do not intend to repeat that.

Now then 6% of $3,681,634.93, which is the capital invested in Alberta, equals $220,898.09 so therefore there are excess profits on that basis of $168,182.80 or in other words the earnings were too high by $168,120,80. The price cuts in July and October of 1939 would have made the foregoing profit, of, would have reduced the foregoing profit of $389,080.89 by $110,580.73. Now then, that would have adjusted the rate of return, that very decrease in the profits, would have reduced the rate of return from 10.57% to 7.56% and there is right where we arrive at the 7.56%.

Coming down to date, therefore, it is proper to say that the earnings were too high now, it is proper to now say that the earnings were too high by $57,602.07 if the present prices, the present prices , using the figures since the 25th of October, 1939, had been in effect throughout 1938; therefore to reduce earnings by $57,602.07, the figure I have just given you, present prices should be reduced by $73,848.81; the difference between those two figures.

Now then this reduction must be applied to one or more products. Our submission is that it should go against leaded gasolines because of the fact that Dr. Brown was of the opinion that the differential between

Third and "Q" was too high and the best he could say about it was that when he left it, to say, "I do not know whether or not the shrinkage brought about, the shrinkage in the differential brought about by the reduction in Ethyl and "Q" of the 25th of October was or was not enough."

Now it is just for that reason in applying, in making my submission, I am submitting that this reduction which I have spoken about and which I will continue speaking about for a moment, should go against leaded gasoline.

Now I have a short calculation here ---

THE CHAIRMAN: Now what are you going to reduce?

MR. FRAWLEY: Ethyl and "Q".

THE CHAIRMAN: Ethyl and "Q" and you say, and you say with these additional figures, we are going to have an exact picture of what we are going to have today.

MR. FRAWLEY: No, this is it, we did it during the short adjournment so it is all here.

THE CHAIRMAN: It is all done?

MR. FRAWLEY: Yes, everything which I have read into the record now is right up to date.

THE CHAIRMAN: What are those rates of return to be changed to?

MR. FRAWLEY: I am changing it right now, the calculation I gave is 6% and then all you have to do is to change that to 8 or 10 in accordance with my submission. I could do it at 8 or I could do it at 10. I could do it at 6. I am running through the calculation at 6 and then I am going to give it to you at once.

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THE CHAIRMAN: All right, it is 6.

MR. FRAWLEY: It is 6.

THE CHAIRMAN: That changes 14.19 to what?

MR. COTTLE: No, that is refinery.

MR. FRAWLEY: I was just about to compare that calculation.

THE CHAIRMAN: Never mind, 7.56% changes to what?

MR. COTTLE: 6.

MR. NOLAN: It changes because Mr. Frawley changes it.

THE CHAIRMAN: Yes, I know, on your argument I am asking you.

MR. FRAWLEY: 7.56% is changed to 6. And I am showing you what the price is changed to now in the light of that. My submission changes it to six or to eight or to ten as you think fit.

THE CHAIRMAN: Quite so.

MR. FRAWLEY: Now then let me follow through what the change in the price is when it is changed from 7.56% to 6. You can see at once if you took 8 there is no change and if you took 10 there is no change.

MR. COTTLE: In other words, Mr. Frawley is computing how much you would have to lower the prices, so as to reduce the earnings to 6%.

THE CHAIRMAN: In marketing only?

MR. FRAWLEY: In marketing only, in marketing only.

THE CHAIRMAN: Mr. Frawley, if you are thinking of this as a marketing company alone, is it your submission that it should only earn 6%?

MR. FRAWLEY: It is my submission it can earn a maximum of 10%. I want to put in what it will be at 8 and what it willbe at 10 and then I am finished. I think it will be useful to have in the record what it will be, what the price should be at 6%, what it will be at 8 and what it will be at 10.

It is my submission that it should be a maximum of 10%.

MAJOR LIPSETT: Just on that, Mr. Frawley, if one accepts your top submission of 10%, would that mean we should recommend corresponding increase in the price of gasoline?

MR. FRAWLEY: No, Mr. Commissioner, because we have the good old-fashioned law of competition which is working, which is working in this province and all I want to do is to see that it works and the principal submission I will make to this Commission is that ways and means must be devised to make it work harder or to keep it working.

MAJOR LIPSETT: Assuming one left it to competition to prevent the price going up, to allow 10% of a return, which would be fair if your top submission was taken, why should one interfere with competition to bring it down to 7.56 or to 6%?

MR. FRAWLEY: Well, my submission is, the thing in my submission is, you can call it, my friend might call it a two-headed Janus, looking two or three ways at once, but I am looking at 6%, and I am not looking at it only to turn my back on it, I say I am looking at 6% and I make that submission as earnestly as I made it yesterday that this company is taking its profits out of the province of Alberta, and that is not good enough for the people of Alberta ---

MAJOR LIPSETT: I appreciate that but does it

not mean that we must come to the conclusion, that we must recommend some interference with the ordinary laws of competition.

MR. FRAWLEY: Yes, well, I will have another submission to make. I am going to turn my back on all this kind of argument, there are two ways to bring down the price in Alberta, one is to step out and arbitrarily fix prices. Now the weight of evidence is against that. There is no question about that. I may as well face it. You fix it in the good years, you keep it down in the good years and you have to increase it in the bad years and I am not confident that we should engage upon a price-fixing of gasoline products, although I think it is something which I think has to be considered and if conditions, if competition does not continue to work, well I am not a prophet or a son of a prophet but I am inclined to think that may be, there may be, there may be some public utility control on gasoline in this Province before some of us thought there might be, unless competition does a better job of working in the Province of Alberta but at the moment I am going to submit to this Commission that we have to look to competition, I am taking a leaf out of the company's own books, but I am going to point to some places where it can be improved and I say we want a regulatory Board, the Utilities Board or call it what you will, with some power to do something about it, with some power to speed up this law of drainage which we have heard about, and to speed up some of these other things that we have also heard about, to keep the long swing from getting so long that it will outlive the lives of the longest of us.

MR. NOLAN: And 21 years after.

MR. FRAWLEY: And 21 years after, thank you. That is at the moment what it sounds like to me, the long swing into the dark future.

THE CHAIRMAN: Yes. Now we have 6%, Mr. Frawley, --

MR. FRAWLEY: Now at 6% there is a calculation which perhaps I could skip, it is not very long, it indicates how we go about to put it on leaded gasoline. You have to go into the Exhibits and I had better do that with you, ---

THE CHAIRMAN: Have you 8 and 10 under your hand?

MR. FRAWLEY: Yes, I have. Well, I have not got anything at 8 and 10, Mr. Chairman.

MR. COTTLE: It is already dealt with.

THE CHAIRMAN: Then that is all right.

MR. FRAWLEY: Oh, I have refinery, yes, I have refining. I am going to pick them out if you will bear with me for three minutes, I will be right at that, Mr. Chairman.

THE CHAIRMAN: All right.

MR. FRAWLEY: I say we must put this reduction on leaded gasoline. Now we come to Exhibit "315" at Page 13 ---

THE CHAIRMAN: I would like to know before you go on why the rate of return is just completely impossible on 8 or 10% on marketing but might be quite all right in refining.

MR. FRAWLEY: The rate of return is quite impossible.

THE CHAIRMAN: You say you do not need to bother thinking about 8% on the marketing. You consider 6%.

MR. FRAWLEY: Yes.

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THE CHAIRMAN: That brings it below 7.56%.

MR. FRAWLEY: Well I want ---

THE CHAIRMAN: But you do not like it to be higher as well as lower but if we are going to do justice in this connection we must consider it.

MR. HARVIE: Not in Mr. Frawley's submission.

MR. FRAWLEY: I will deal with that, Mr. Chairman, I say ---

THE CHAIRMAN: I may be taking you out of your stride.

MR. FRAWLEY: I would like to discuss that after I have shown what it would be in the price reduction.

THE CHAIRMAN: Very good.

MR. FRAWLEY: What I say is when we go to Exhibit "315" to find the gallonage of each kind of gasoline we find there the total of leaded gasoline was 13,275,675 gallons. We find, we therefore divide ----

THE CHAIRMAN: You are now where?

MR. FRAWLEY: We divide $73,848,81 the amount, the number of dollars by which the present price should be reduced, by 13,275,675 gallons, the price of leaded gasoline should therefore be reduced by .56 cents.

Now then picking out the reduction at the refinery door in the price of all gasolines of .76 cents, using the 6% basis, the tank wagon price on leaded gasolines should therefore be reduced by .56 cents plus .76 cents or 1.32 cents and also the tank wagon price on all other white goods should be reduced by .76 cents.

Now then therefore the Calgary tank wagon prices should be ----

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MAJOR LIPSETT: So that I may follow you, Mr. Frawley, you have first of all a reduction of .56 cents, dividing your sum of money by the gallonage.

MR. FRAWLEY: That is right.

MAJOR LIPSETT: Then how do you pick it up to .76?

MR. FRAWLEY: I pick it up because in my submission yesterday it was shown that the reduction ----

MAJOR LIPSETT: Oh, I see, that is the .76 cents based on the 6% return on refining.

MR. FRAWLEY: Yes, Mr. Commissioner.

(Go to Page 17,421)

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MR. NOLAN: I have not got that figure.

MR. COMMISSIONER LIPSETT: 6% return on the refining gives you a reduction of,.....

MR. NOLAN: I think Mr. Frawley said the reduction was .69 cents per gallon.

MR. COMMISSIONER LIPSETT: That is right. .69 cents is 6% reduction.

MR. NOLAN: Mr. Frawley gave us now .76. I am not sure where he got that.

MR. FRAWLEY: If you will give me a moment to find my memorandum. That is quite right. That is another change that has come about by virtue of the 2½ cents, Mr. Chairman.

MR. COTTLE: .76 cents considering the 2½ cent increase.

MR. HARVIE: You are going to use the .69 cents are you?

MR. FRAWLEY: Yes, Mr. Harvie. That is 1.25, Mr.Commissioner, instead of 1.32, adding them both together.

THE CHAIRMAN: You can make something like this up for this, cannot you, Mr

MR. COTTLE Yes.

MR. FRASLEY: Now, Mr.Chairman, then I can complete just what the Calgary tank waggon prices would be on the basis of the reduction in the rate of return to 6% in the marketing of Esso gasoline.

MR. HARVIE: Would you mind repeating those figures again?

MR. COMMISSIONER LIPSETT: A reduction of .56 giving

6% on the marketing return, and .69 giving a 6% return on refining.

MR. FRAWLEY: And the tank waggon prices on leaded gasoline should be reduced by .56 plus .69.

MR. COTTLE: .69 applied to all white goods at the refinery door.

MR. HARVIE: And an additional .56 on leaded.

MR. FRAWLEY: Yes, that is right. That is 1.32.

MR. COMMISSIONER LIPSETT: In arriving at your .69 on your refinery return of 6%, that gives it based on third structure as well as everything else, is it?

MR. FRAWLEY: The .69 is a reduction at the refinery door on all gasolines.

MR. COMMISSIONER LIPSETT: If you gave that reduction and applied it only on Esso and 3 Star it would be considerably more than .69, if you leave third structure where it is.

MR. FRAWLEY: My submission is that the tank waggon prices on leaded gasolines should be reduced by .56 plus .69 equals 1.25, and the tank waggon price on all other white goods is reduced by .69 plus nothing. .69.

THE CHAIRMAN: Then you are not applying the reduction of the .69 only to Esso and "3"?

MR. FRAWLEY: No, it carries right through. On leaded gasolines it is a combination of the two savings, but on third structure and all other white goods it is just the one saving at the refinery door.

MR. COTTLE: It could be applied in any way.

MR. FRAWLEY: We simply arbitrarily more or less say it should go to leaded gasolines for the reasons we have indicated.

THE CHAIRMAN: What about your drainage when you change the present equilibrium.

MR. FRAWLEY: We followed Dr. Frey. You see of Dr.Frey were here he would say - he did say that third in relation to "Q" and Ethyl was at rock bottom. To stop drainage you can do one of two things. You could increase the price of white and leave the leaded where it is, or leave white where it sis and drop the leaded. Dr. Frey said in his opinion the Company for its own best interests should and they did reduce the price on leaded and shrunk the differential in that way.

THE CHAIRMAN: And he says as far as he could see that was about right. You asked him as to whether it was exactly right.

MR. FRAWLEY: I think the furthest he went was he just could not say. It was something that was a question of trial and error, an experiment, and the Company would find out in three or four months whether it was right or too little or too much.

THE CHAIRMAN: Then he would not recommend any further drop?

MR. FRAWLEY: You mean if he were advising the Company?

THE CHAIRMAN: Yes.

MR. FRAWLEY: On that question, it

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was not put to the Company.

THE CHAIRMAN: Let us see what he did say. I do not think he was as casual as all that.

MR. COMMISSIONER LIPSETT: I think he said he did not know whether the decrease in the spread would continue, that is the diminution of the spread between the two.

MR. FRAWLEY: Have you that page now?

MR. COMMISSIONER LIPSETT: He rather indicated that diminution might go further on the spread between the two.

MR. NOLAN: He said in effect, and this is my paraphrase "Any price change is experimental and whether the reduction on October 25th will produce the result anticipated remains to be seen. It is an experiment in the right direction."

MR. FRAWLEY: What Volume and page?

MR. NOLAN: Volume 132 at Page 14,751.

MR. FRAWLEY: Let us see what he was asked and what he said. Yes, because that is the day after. The 26th of October, the day after the cut was put in. "

"Q MR. FRAWLEY: I will come back to that
" in a moment, but you told me a moment ago that
" the Third Structure was about where it had to be
" competitively now?
"A Yes.
"Q And you said your opinion was, I am still dealing
" with the situation before yesterday, that there
" was too great a differential between "Q" and
" Third?
"A Yes.

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"Q And that is exactly the same as saying in
" your opinion that 'Q" was too high?
"A In terms of price "Q" was too high.
"Q Now something happened yesterday that Mr. Cottle
" has just described, which has brought the dif-
" ferential, the average differential back to where
" it was prior to the 24th of July last. Will you
" give the Commissioners the benefit of your views
" as to the adequacy of the reductions made
" yesterday in the light of Mr.Cottle's figuros?
"A To me any price change is experimental.
"Q What was it in June last, you had an opinion in
" June on this question, prior to the July change?
"A No, I did not form a judgment at that time. I
" have since, I do not remember just exactly what
" the situation was in June.
"Q Well Mr. Cottle now tells me it was the same
" average differential in June as it has been
" brought back to by yesterday's change?
"A Yes.
"Q Well now, you have that, did you have a view
" in June?
"A I didn't come to a conclusion in June; In
" discussing this matter or a determination of
" what were the differentials we were considering
" the situation as of June but I did not come to
" that conclusion in June.
"Q Well now, coming back to my question of a moment
" ago, then what is your opinion as to the adequacy,
" or can you say as to the adequacy of Mr. Halverson's
" reduction of yesterday?

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"A I would say that the reduction is experimental
" and whether it will be, whether it will produce
" the results anticipated remains to be seen. It
" may be sufficient. If it is not sufficient then
" a further reduction will be in order but until
" it is possible to calculate the effect of it
" I would say that one cannot determine whether
" it is adequate or inadequate. It is an
" experiment in the right direction.
"Q Now when did you form your opinion, Dr.Frey,
" was it an opinion which related back to the
" period prior to the 24th of July? "

THE CHAIRMAN: Where does he discuss, I brought him back to it again somewhere.

MR. NOLAN: Differentials.

THE CHAIRMAN: Yes. He said 3 cents for example, a drop of 3 cents would have been shocking.

MR. FRAWLEY: Yes, right there. Let me follow right on. He said:-

"A I do not quite understand your question.
"Q I mean, you did have an opinion that the dif-
" ferential was too wide?
"A No.
"Q THE CHAIRMAN: A week ago?
"A A week ago.
"Q MR. FRAWLEY: Yes. Now did that relate
" back to the period prior to the 24th of July; the
" figures you were studying, I mean?
"A The figures I was studying related to the 3½ cents
" differential.

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"Q The 3½ cents differential, I see. Well now
" we have some change made as of yesterday and
" are you able to say, I am just asking you the
" question again, as to whether or not that is
" adequate and sufficient or are you simply in a
" position that you do not know?
"A I am assuming a position that I do not know. I
" am assuming the position that the 3½ cents was
" too much but what is the correct I do not know.
"A One would have to have some history on the effects
" of differentials to arrive at a thoroughly sound
" conclusion. If this involved an area over
" which we had a long differential history I would
" be in a better position to judge whether it was
" adequate or inadequate. I would say from my
" experience down home that if I saw certain
" differentials developing in specified areas which
" I know the differential history of, that I could
" pretty well calculate what the consequences
" would be and how much of a differential change
" would be necessary to bring about the desired
" results but here I will have to admit that I do
" not have enough knowledge concerning differential
" history to say whether it is adequate or inadequate;
" it only seemed to me that it was proof positive
" from the figures that there was a large gallonage
" involved in this shift and that by the narrowing
" of the differential that the Third Structure
" should not take as much business as it was. "

MR. NOLAN: That is not the place at all. This is the reference that the Chairman wants.

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Dr. Frey told us that one criteria as to whether such a type of thing were taking place would be the very violent changes in price structure. If the Imperial had changed the price yesterday two or three cents, he said "I think they certainly would be open to very serious criticism and should be required to tell why they did it."

THE CHAIRMAN: Where is that?

MR. NOLAN: Volume 132, Page 14,798.

MR. FRAWLEY: Yes, we talked a long time about differentials there. Now then, at Page , 14,798, Volume 132. "I should say that one of the criteria as to whether such a type of thing were taking place would be the very violent changes in price structure."

You had been discussing with him this question of - now I want to be sure it was you. I think it was.

MR. NOLAN: I thought it was the possibility of the major companies driving the manufacturers of Third Structure out of business, and I think it was Mr. Commissioner Lipsett who encouraged the discussion.

MR. FRAWLEY: I want to see if I can get back to the beginning.

"Q I would just like to guard anybody from thinking
" that I expressed any point of view, Doctor?
"A I see.
"Q But assuming for the moment that circumstances
" are that the major companies might be able to
" drive these manufacturers of the Third Structure
" out of business if they wished, would that be a
" type of monopoly or a risk of such a type of
" monopoly that you think the Government, as

" representing the community, might become
" interested in investigating and possibly
" regulating?
"A I should say that one of the criteria as to
" whether such a type of thing were taking place
" would be the very violent changes in price
" structure; if for instance, to be specific,
" the Imperial Oil Compqny had yesterday, I think
" it was yesterday they changed the price, had
" they changed the price 2 cents on one and 3
" cents on the other, I think that they certainly
" would be open to very serious criticism and should
" be required to tell why they did it. I cannot
" conceive of violent price changes.....
"Q MR. FRAWLEY: Tell whom, Dr.Frey?
"A The Government.
"Q Whom should they be required to tell?
"A The Government. I presume there is such a thing
" as the Government, that it is not a pure
" abstraction and that there is a Ministry, so that
" I should say it would be perfectly legitimate
" and I would say that the Minister, whatever one
" was involved, would be very callous of its
" responsibility if it passed up such a terrific
" price change as I have just suggested, without
" inquiry. "

THE CHAIRMAN: He is speaking of 2 and 3 there?

MR. FRAWLEY: A change of price of 2 cents on one and 3 cents on the other.

THE CHAIRMAN: And the change that had taken place immediately before.....

MR. FRAWLEY: They had dropped Ethyl 1 cent and regular ½ cent.

THE CHAIRMAN: He says if they had - I suppose his figures must relate to the two drops - instead of dropping half a cent they had dropped 2 cents? ,

MR. FRAWLEY: Or even 3 cents?

THE CHAIRMAN: He said the Government should be very much concerned at once with such a radical drop. What drop are you going to suggest?

MR. FRAWLEY: I say that if you take 6% you drop the price....

MR. NOLAN: 1¼ cents.

MR. HARVIE: But the differential has no relation one to another? They would all go down?

THE CHAIRMAN: What I have here is the price of Ethyl went down half a cent did it not?

MR. FRAWLEY: Yes, half a cent.

THE CHAIRMAN: You are suggesting Ethyl should go down how much more?

MR. FRAWLEY: A cent and a quarter.

THE CHAIRMAN: More?

MR. FRAWLEY: Yes, now.

THE CHAIRMAN: Over and above the half that has already been dropped?

MR. FRAWLEY: Yes. I am assuming.....

THE CHAIRMAN: That is a cent and a quarter and it has already gone a half?

MR. FRAWLEY: No, Ethyl has dropped 1 cent on the 25th of October.

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THE CHAIRMAN: Oh yes, I am confused. Esso is your Ethyl?

MR. FRAWLEY: Let us say Ethyl and Regular.

THE CHAIRMAN: We take "Q". "Q" went down half.

MR. FRASLEY: Yes.

THE CHAIRMAN: You are suggesting that "Q" should go down how much more?

MR. FRAWLEY: One cent and a quarter.

THE CHAIRMAN: That would be $1\frac{3}{4}$ cents that we go down altogether?

MR. FRAWLEY: Yes.

THE CHAIRMAN: And Dr. Frey's evidence was if it went down 2 cents instead of $1\frac{3}{4}$ cents, the Government should jump in. That is how close you are.

MR. FRAWLEY: First let us see which Dr. Frey meant. Let us just analyze it. He says 2 on one and 3 on the other.

THE CHAIRMAN: He said it would be so radical, if I am opposing the right ones to the right ones.

MR. FRAWLEY: I wonder if you are. He said if they had changed the price 2 cents on one and 3 cents on the other. Now in their order, starting with 1, 2 and 3, going that way, that would mean if they had changed Esso 2 cents and 3 Star 3 cents, as against what they had changed it.

THE CHAIRMAN: Surely it is the other way, because, I mean, the drops were the other way. He would not be applying his 3 cents that he says would be radical to the half cent, and the 2 cents to the 1 cent.

J. J. Frawley, K.C.

MR. FRAWLEY: Let us see what it was that was being looked at and then we can see what he had in his mind. It was 19,16½ and 13. You see, Mr. Chairman, let us make a little table and see.....

THE CHAIRMAN: Your .69 runs through everything.

MR. FRAWLEY: My .69 runs through everything.

THE CHAIRMAN: So you are only making a difference of a half a cent, or a cent all told, counting the last reduction?

MR. COMMISSIONER LIPSETT: In the differential it is only the difference between .69 and 1.25 that will affect it as between "Q" and Third Structure.

MR. COTTLE: Yes. I do not think Dr. Frey was talking about a violent narrowing of differentials. It is just the violent price change he had in mind. He was not referring to a violent shrinking of differentials between products.

MR. COMMISSIONER LIPSETT: Wasn't he, Mr. Cottle?

MR. COTTLE: I do not think so.

MR. COMMISSIONER LIPSETT: Weren't we discussing what would happen to a Third Structure refinery?

MR. COTTLE: I think what he had in mind was the effect of the prices also on jobbers and everybody else.

MR. COMMISSIONER LIPSETT: Was it not the point that if you took violently 3 cents off Esso you are going to punish the maker of Third Structure and the Government should look into it at once?

MR. COTTLE: Yes. You are also

J. J. Frawley, K.C.

going to punish the jobber and everybody else. He is taking the whole industry as a whole, not just Third Structure.

THE CHAIRMAN: What we were attracting his attention to was what would happen to Plotkins or anybody else making Third Structure.

MR. COTTLE: Well that may be. I was just speaking of my recollection. I think he was just referring to it being punitive to everybody.

MR. FRAWLEY: What Dr. Frey was talking about was this. On the 24th of October - I mean in figures - on the 24th of October the prices were 19, 16½ and 13. Mr. Halvorsen made them 18, 16 and 13. He dropped Ethyl 1 cent,and Regular half a cent and left Third alone. He made them 18, 16 and 13. Dr. Frey says if he had made them 17, 13½ and 13, that would be all wrong. One thing would be terriby wrong about it - well I do not know - half a cent between Third and Second. But that is what they would have done. But, oh, 3 cents off Ethyl. I am agreeing with you that is what he probably meant. That would be 16 and 2 off "Q" 14½,

MR. COMMISSIONER LIPSETT: What he is saying is if you took 3 cents off Esso and 2 cents off "Q", you are making such an attack on Third Structure that the Government should intervene, that there is some unfair pressure of force.

THE CHAIRMAN: Because it leads to a monopoly.

MR. FRAWLEY: I think so. My differentials are going to be 16¾, 14¾ and 12-1/3.

That is on my suggested prices at 6%.

THE CHAIRMAN: That brings you down to 1 cent.....

MR. COTTLE: It changes the differentials .56.

THE CHAIRMAN: Between "Q" and Third Structure 1 cent.

MR. FRAWLEY: Oh no.

MR. COTTLE: .56 cents.

THE CHAIRMAN: That is right, but they have just taken off half a cent.

MR. COTTLE: Yes, that is so.

THE CHAIRMAN: So it is a cent it has come down in the last few weeks.

MR. COTTLE: Oh yes.

MR. FRAWLEY: It narrows the differentials of course. They are now 18, 16 and 13. At 6% return they would be 16$\frac{3}{4}$, 14$\frac{3}{4}$ and 12-1/3.

THE CHAIRMAN: Now in cents per gallon that is what?

MR. FRAWLEY: I will put in a table form, for the record, all at this place. I say "Therefore the Calgary tank waggon price should be, by reducing the rate of return to 6% on marketing;

16.75.

Esso	18 - 1$\frac{1}{4}$	= 16.75.
Three Star	16 - 1.25	= 14.75.
Acto	13 - .69	= 12.31.
Distillate	12 - .69	= 11.31.
Royalite Kerosene	18 - .69	= 17.31.

There, in table form, are the reductions which will be brought about by reducing the rate of return to 6%. If the rate of return is reduced to 8%.

MR. NOLAN: Reduced?

MR. FRAWLEY: If the rate of return is left at 8% in both departments.

THE CHAIRMAN: Is this both departments?

MR. FRAWLEY: Yes, I have left it at both departments. .56 in leaded gasolines in marketing. Put on the marketing saving on leaded gasolines on to the .69 refinery saving. So that what I have given you now and what I have just left and put in table form in the record, is the effect of reductions in both departments.

MR. COTTER: That is the case if Mr. Moore reduced his price .69, and naturally Mr. Halvorsen picks that up and passes it on to the tank waggon and throws in another .56 cents in the leaded products as well. That is not because of considering it as one company again. It is just because Mr. Moore makes one change and the marketers make the other change.

MR. FRAWLEY: If the rate of return, the proper rate of return in both departments is 8%, then reductions are to be made in marketing and carrying through the tank waggon reduction, then at the refinery door it is namely .52.

MR. COMMISSIONER LISSETT: What is .52?

MR. FRAWLEY: That is the saving at the refinery door if the rate of return is reduced to 8%. .52. Then the reductions on all of the products would be Esso 18 cents, 3 Star 16 cents, Acto 13 cents, Distillate 12 cents-

12 cents, Royalite Kerosene 18 cents, each of which is reduced .52 cents, roughly half a cent. If 10% is to be the proper rate of return to be allowed in both departments, there is nothing in the marketing department, no reduction in the marketing department and .35 cents in the above tank waggon prices carried through from the refinery door. Then, of course, if these refinery door reductions.....

MR. HARVIE: That does not increase the marketing return does it?

MR. FRAWLEY: I say no reduction in the marketing department but .35 carried through from the refinery door into the tank waggon prices. If the refinery door reductions in all white goods were to be applied on loaded products only, then of course our reductions should be as follows and there follows a blank, and Mr. Cottle would have to give you those reductions.

MR. COMMISSIONER LIPSETT: Mr. Frawley, just on your own statement about the 6% return. The effect of that now would be to take .69 off Third Structure. Have you considered that at all in connection with the evidence we have from Mr. Plotkins that on Third Structure, at its present price, that he is running at a loss? And what would be the effect of your competitive system if you put in a reduction of ,69 on Third Structure today? You would be eliminating competition to that extent.

MR. FRAWLEY: If I put in a reduction of .69?

MR. COMMISSIONER LIPSETT: Yes.

MR. FRAWLEY: That would work.....

MR. COMMISSIONER LIPSETT: Even assuming that one accepted your 6% basis. Have you really brought that out to its proper conclusion of putting .69 of that on Third Structure?

MR. FRAWLEY: You mean to take all the .69 and instead of putting that on the white goods to put it all on Third Structure?

MR. COMMISSIONER LIPSETT: No. You are taking .69 off Third Structure, that is your submission?

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: I am just gputting it to you, is not that rather, in the face of all the evidence - first of all the evidence of Plotkins that he is losing money at the present time, and secondly, the evidence of your American experts, and Dr. Frey especially, that the spread should be narrowed between First and Second Grade, and Third if possible.

MR? NOLAN: He said that Acto was at rock bottom.

MR. COMMISSIONER LIPSETT: Yes, I would like the reference to that.

MR.NOLAN: Volume 133, at Page 14,806.

MR. FRAWLEY: I have just given you that. It appears also in another place.

MR. COMMISSIONER LIPSETT: Perhaps you would have some further thought to give to that particular idea, Mr. Frawley.

MR. FRAWLEY: It can be computed anyway. When you ask me what effect it is going to have on Mr. Plotkins I say this. It is a remarkable thing that

Dr. Frey and Dr. Brown told us, and my friends included, "Hands off! Do not fix anything. That is not your business. Let us see free competition, as we interpret it, as we interpret competition", because I think that is the neat point. "We will look after Mr. Plotkins in our own good time. We will make it awfully tough for him if we like. But don't you try to superimpose your puny governmental knowledge, or lack of it, upon this industry. Leave it to competition. Competition will do all these other things, and drive Mr. Plotkins out and drive Mr. Mayland out." Well that is all very well. It is just too bad. Perhaps Mr. Plotkins and Mr. Mayland should not have gone into this hazardous and risky business. "But don't you touch it. A quarter of a cent taken from me is a horrible thing", but a 1 cent from Mr. Halvorsen one bright fine morning is just something else altogether.

MR. COMMISSIONER LIPSETT: But supposing you take that. You assume that competition has driven Plotkins to rock bottom and to a state where he says he is losing money. Should we then turn around and say "We will take .69 per gallon more off his price?"

MR. FRAWLEY: That is the difficulty I am in. I have got to explore all the aspects of this. I could have said "I am not going to say anything at all about price fixing. I am not going to try and work out any rate of return," and just let this thing go merrily on and devoted myself, as I am going to in the balance of my argument, and see how we can keep up competition. Because frankly, I am going to put it to you in the end, Mr, Plotkins or no Mr. Plotkins, we have to concentrate on Mr. Halvorsen. We have to keep pounding on this

Mr. Halvorsen who makes the price in this Province. We have to make competitive conditions, and multiply them if necessary to keep him on his toes so that the consumer will ultimately benefit. I am not at all satisfied that the price of gasoline in this Province is as low as it should be. But we are so possessed with the difficulty of trying to work out some policy of price fixing, some policy of rate of return and we become so close to the public utility principle - which I will not subscribe to of course, at this stage. So that it seems to me we are left, we are frankly left where we have to go, reluctantly if you like, but I am driven very reluctantly into the very heart of the competitive system. My submissions are going to be to this Commission that we must whip up these competitive forces in this Province. We must keep prices down. The price is not down to where it should be for the people of this Province. But it will be down by hammering at this Mr. Halvorsen who sets the prices in this Province.

MR. COMMISSIONER LIPSETT: That will be an alternative matter.

MR. FRAWLEY: Yes, like we say in a Statement of Claim, and in the alternative we say so and so.

MR. COMMISSIONER LIPSETT: Then you would be limited in this way to the Government keeping the ring so that the fight would be fair.

MR. FRAWLEY: Yes, we would do a lot of things. As I develop my argument as to what the Board set up by the Government can do, there are a lot of things I am going to seriously suggest should be done. I am going to suggest there should be some effort made to get

the refiner nearer to the service station in this Province. There are a lot of things I am going to suggest should be done to Mr. Halvorsen from day to day, to bring him to the point where he will drop the tank waggon price.

(At this stage the Hearing was adjourned until 2 P.M.)

.....

MR.FRAWLEY: Now Mr. Chairman, I propose to just make one very brief further reference and then proceed to the other phase of my argument.

I simply say that the prices which I read into the record this morning of 16¾¢ for Esso, of 14¾¢ for 3-Star, of 12.31¢ for Acto, of 11.31¢ for Distillate and of 17.31¢ for Royalite Kerosene are prices which would prevail if the company were operating and had operated in 1938, always using 1938 costs and the 1939 price adjustment, if they had been earning a rate of return of not more than 6%, which I have called your attention to is about one-half of 1% more than the all-Canadian average, that is what I say about that and that is all I say about that and then I say, I say, that the maximum rate of return which this Commission should take into consideration or which should be given regard to, is 10% in marketing and I say that if you go to 10% then there is to be no reduction in marketing costs because the recent reduction in prices have brought their marketing profit down to 7.56% but there is yes, the one-third of a cent in the price carried from the refinery and through the refinery door into the tank waggon and if it is 8%, then that is one-half of 1% now----

MR. COTTLE: One-half of a cent.

MR. FRAWLEY: One-half of a cent, .52¢, which has also been carried through from the refinery. Now that is all I say about that.

MAJOR LIPSETT: Is your argument, Mr. Frawley, does it indicate that there should be 10% if

that 10% is all over Canada?

MR. FRAWLEY: No, it certainly does not, Mr. Commissioner, I say that competition has driven them down to 7.56% and I am not going to interfere upward with that competition, certainly not, certainly not. We still have competition in this Province and all I say is----

THE CHAIRMAN: Now then the witnesses say that there is competition in refining in this Province.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And it has not driven them to that.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now on what principles are we invited to interfere with the results of free competition.

MR. FRAWLEY: Well when, when, upon what principle.

THE CHAIRMAN: Where does your argument lead us, what do you invite us to do or are we interfering with something you are going to say later.

MR. FRAWLEY: No, I am not going to, you see I am resting my case principally upon the desirability of whipping up the competitive forces, the action of the competitive forces.

THE CHAIRMAN: All right, let us see---

MR. FRAWLEY: Yes.

THE CHAIRMAN: Let us take it this way that it is desirable that competition should have driven this rate down to the 6% return on refining.

MR. FRAWLEY: Quite, and then you recommend to His Honour, the Lieutenant-Governor-in-Council that the prices be reduced in accordance with the prices I have read into the record. Now then that gives me a fresh start, I still go on quite consistently to my further argument, that the competition should be whipped up and in the manner and for the reason I will indicate.

THE CHAIRMAN: I understood you to say that you had abandoned I think all suggestion of price fixing.

MR. FRAWLEY: Well but of course----

THE CHAIRMAN: Why is that.

MR. FRAWLEY: Well I have pointed this out to you in this way, that if you are persuaded you must give effect to my argument, that the people of Alberta should not pay any more than they pay in the rest of Canada, which seems to be fixed, the prices, where the prices appear to be fixed on a 6% return, then you will say to His Honour, the Lieutenant-Governor-in-Council, in my respectful submission, that in Alberta the prices should not be above a price to yield this company a 6% return, namely, the all-Canadian rate of return, and if you go to that step, then the next necessary step is that those prices be arbitrarily and by regulation and by order reduced, by order reduced to the prices I have suggested. Quite so, then that is the first step. Now that is the 6% step. Then if you say---

THE CHAIRMAN: Without knowledge, without knowledge of the risk run here as compared to there, the expenses of doing business here as compared with there.

MR. FRAWLEY: My answer to that, Mr. Chairman, as I put it, that with the silence of the Imperial Oil Company plus their refusal to show the No. 9 for all Canada, that is my answer to that, I just have to say we know nothing of that sort, granted, why do we not know, why have we not that information, is it not to be assumed that the company would have anticipated this argument I am now making and they would have said "You talk about driving us down to the all-Canadian level, look at what we are doing in Quebec, look at the dishonest, dishonest competition we have to meet there, don't drive us down to that. Nova Scotia, look at the, not dishonest, but look at the iniquitous system of Government price-fixing we have to contend with there", and so on throughout the Dominion, and I say that on account of the absense of any such contention before this Commission, and I think that contention is silent, we have had no complaint, that they say "put, give what effect you think should be given to that kind of contention", then I say there is nothing wrong or iniquitous in putting the company down to this all-Canadian average and that is what I say and that is all I can say.

THE CHAIRMAN: Well you will remember that when Dr. Frey was examined about this that he said "there is no half-way measure about this; you are either talking about the competitive system or you are not".

MR. FRAWLEY: I know.

THE CHAIRMAN: "You are talking, if you are not talking about the competitive system you are talking about a Public Utility."

MR. FRAWLEY: That is right, that is right.

THE CHAIRMAN; But he suggested that there is no way known to man where you can have it half and half, that is his evidence.

MR. FRAWLEY: Well I know that that is my difficulty, Mr. Chairman, but I point with some confidence to the Province of Nova Scotia. What is it in Nova Scotia? Nobody can say that gasoline has become a Public Utility in Nova Scotia but there is a top-stop legislation in Nova Scotia. Nobody can say that gasoline has become a Public Utility in British Columbia and there is price fixing. Nobody can say that there a Public Utility in New Brunswick, that has not yet been brought to your attention but I intend to bring it to your attention, there is the same price fixing power in New Brunswick as there is in Nova Scotia. It is the half measure that Dr. Brown says that we cannot have but that Dr. Frey is a little less sure about. He says the difficulties in the Nova Scotia legislation,-apart from not being any necessity for it of course,-apart from not being any necessity for it here, of course he sees difficulties in it.

THE CHAIRMAN: He says the same thing. He lays down four conditions and he said unless those conditions are met that----

MR. FRAWLEY: There is no doubt about that. You see my position is simply this----

THE CHAIRMAN: He says there is just no excuse for governmental intervention except in those four instances he gives.

MR. FRAWLEY: That is his view, Mr.

Chairman and all my words will not controvert or change that, so far as Dr. Frey's evidence is concerned.

THE CHAIRMAN: That is so, but we are not bound, because the experts called here and practically every other witness who addressed himself to the subject agrees, it does not follow that we have to accept that, but I would like to follow the reasoning that you would support the conclusion that you suggest we might well arrive at, is it only to say "They have done something in British Columbia, they have done something in Nova Scotia, a fortiori it cannot be wrong to do it in Alberta". I am not prepared to say that it may not be an iniquitous thing to do in Alberta, I do not know. I am equally not saying it would be but I would like to know by what process of reasoning we can give effect to what you are suggesting. We have heard Dr. Brown's reasoning for example and he says a Public Utility is one thing, free competition is another. Now as I can appreciate what you are saying, it is neither one nor the other.

MR. FRAWLEY: You see I have an argument for a regulatory board, quite a separate and distinct argument for that because I am frank to say the Commission may have different views upon it----

THE CHAIRMAN: If you are touching upon it.

MR. FRAWLEY: I am when it comes to a question of the regulatory board, and I say I am not flying contrary to this evidence but I may fly contrary to the evidence when I say we can come out boldly

and have price fixing, a price fixing board.

THE CHAIRMAN: I am just addressing myself to the one subject now.

MR. FRAWLEY: Price fixing.

THE CHAIRMAN: You say we find a condition in the rest of Canada as disclosed by the Exhibits here. Now, we do not know the why and the wherefore of it. The Exhibits speak for itself.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And you say bearing that Exhibit in mind you are justified in saying, by way of recommendation, that price fixing should be indulged in in this Province because if you say the price of gasoline has got to go down, or any other commodity has to go down, or has to provide a rate of so much only for the company, because that is all they are earning in the rest of Canada, I do not, I cannot give that any other name than "price fixing".

MR. FRAWLEY: Well you see----

THE CHAIRMAN: Facing realities, do you think we can.

MR. FRAWLEY: Yes, I think we can.

THE CHAIRMAN: Do you think it is something different from price fixing.

MR. FRAWLEY: Yes, I do not think it is price fixing at all. Supposing we had found----

THE CHAIRMAN: And I am not saying that price fixing is wrong, but let us take it as it is.

MR. FRAWLEY: Dr. Brown says the rate of return should be 13%, let us say for the sake of this

suggestion that he said 15% and we found in fact that this class of performance was 35%. We found that, that the profit performance in the figures we were talking about, 12.6 and 10.57 and 7.56 was 35%.

THE CHAIRMAN: Yes.

MR. FRAWLEY: ..ould the Commission have to, because of these considerations which you are just putting to me, the suggestion that prices must never be fixed, must be left to competition, would the Commission have to turn their backs on the 35% and say "Well we must leave it to competition because Dr. Brown says so", because in these conditions or under those conditions I do urge, as I certainly would, that that 35% must be slashed, call it price fixing or call it what you will, bring it down to the 15%, that would all be within the evidence so far----

THE CHAIRMAN: Yes.

MR. FRAWLEY: I would certainly then depart from Dr. Brown and say "yes, whether you call it price fixing or whether you call it top-stoping, half-measures or what-not, you must do something in the way of recommending, in the way of making a recommendation, so that that profit will be brought down from 35% to 15%. Now would that be price fixing, would that be making it a Public Utility, that is the issue and I suggest it would not be making it a public Utility and that is only the degree.

THE CHAIRMAN: That would not be making it a Public Utility.

MR. FRAWLEY: That would not require,

that would not require a complete recommendation that this industry be made a Public Utility, I think not. I think this Commission should surely say "We find 35%, the witnesses say that 15% is a fair rate of return", now the rest is mere mechanics, what are we going to do.

THE CHAIRMAN: Well it would be price fixing.

MR. FRAWLEY: All right, price fixing.

THE CHAIRMAN: I have no doubt and you would say there is justification and that the justification for it lies in this that a fair rate of return is 15% and they are getting 35%.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now I say at the moment it strikes me that that is a negation of free competition because we have heard from all of the witnesses that "free competition is getting as much from the public as you possibly can".

MR. FRAWLEY: Yes.

THE CHAIRMAN: To the extent that your competitors do not undersell you and make it impossible.

MR. FRAWLEY: Yes, well all right, that is fine and then we have it, Mr. Chairman----

THE CHAIRMAN: That is the basis of free competition "Get all you can from the consumer".

MR. FRAWLEY: Well we understand each other and it makes it easier for me to understand because if that is the position and you are perfectly consistent, Mr. Chairman, then there cannot be any re-

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lief at all from the point of view of these experts, any relief at all for the consumer except by leaving it to competition and they might say, they might, I do not know that they will go as far as I am going, they say "Keep the competition as active as you can".

THE CHAIRMAN: Mind you, Dr.Frey goes some way with you, he says there is a place for government intervention when there is great scarcity---

MR. FRAWLEY: Yes.

THE CHAIRMAN: Or when there is great plenty which leads to a distortion of the proper price and----

MR. FRAWLEY: And where there is a tendency to monopoly.

THE CHAIRMAN: And where there is no true competition.

MR. FRAWLEY: And where there is apparent but not real competition.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And when there is a tendency to monopoly, those are the four. Well that is true and maybe this would not come in very well, very aptly, under any of these subjects so what would we do, now we would just have to do nothing, to follow these gentlemen completely through, we would not do anything because Dr. Brown says so, because I put that to him, I think we went to 20 or 30% "no, I would not touch it at all. Free competition will attend to that".

THE CHAIRMAN: Just to examine Dr. Frey while we are on the point, if you think it worth while

at the moment, do we come within any of those conditions that he says justifies intervention.

MR. FRAWLEY: In the 35% suggestion I made to you.

THE CHAIRMAN: Yes.

MR. FRAWLEY: I think that that is a case of just too much money and he doesn't add a fifth one.

THE CHAIRMAN: You do not feel there is evidence here that would warrant us in saying that there is in fact a monopoly.

MR. FRAWLEY: That is something else now, no, that is something else when I come to submit my recommendation as to a regulatory board of any kind, of any kind. I think there must be a regulatory board but now we are talking price fixing and I think we should exhaust it before we leave it and then I am going into competition and I will leave the field of price fixing.

THE CHAIRMAN: Price fixing is one means of Government intervention surely.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And Dr. Frey was directing his attention and his mind to price fixing.

MR. FRAWLEY: He does not want anything to do with price fixing.

THE CHAIRMAN: But he does and I am asking you if you are suggesting that we do some price fixing at this stage, do we come within any of those four conditions or do we just say "He is wrong".

MR.FRAWLEY: Well yes.

THE CHAIRMAN: You ought to be able to argue if the rate of return is 15%, I mean if the rate of return should be 15% and the return in point of fact is 35%, surely there is some implication there that there is no competition.

MR. FRAWLEY: Oh that may be the lower step but I want to show you----

MAJOR LIPSETT: I was wondering if you had any suggestion along these lines, that in the marketing department which you have segregated entirely from the refining, you find a rate of return of 7.56%---

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Now can you say that that is a correct return, that that would be allowed under a completely competitive system but that when you come to refining for various reasons there is not the same completely competitive system in operation, for instance you have not the Texas Company and that it is as a result of diminishing competition that the rate of return is doubled.

MR. FRAWLEY: Of course that is my whole point, my whole point is that the Imperial Oil are getting these long prices because they have not any competition. Now they are longer in the refining than they are in the marketing. They were 10.57% but on their own motion they made it 7.56, a return of 7.56.

MAJOR LIPSETT: And if you were to establish that with reference to refining, would you not have a tendency to monopoly, one of the four heads which Dr. Frey suggests would justify or at least warrant con-

sideration of government intervention.

MR. FRAWLEY: Well that is Dr. Frey. Let me first dispose of what Dr. Brown says in Volume 127, page 14,240 to see how far he goes, page 14,240---

MR. NOLAN: Mr. Commissioner Lipsett, please remember that it is on my 1940 operations that I am being judged.

MAJOR LIPSETT: Yes, I am not losing sight of that, I am just trying to test out this.

MR. FRAWLEY: This is this question of my 35%, page 14,239 in Volume 127----

THE CHAIRMAN: Page 14,240 is wrong.

MR. FRAWLEY: Yes, please that is wrong, page 14,239, well let me please take it at 14,238, one page earlier, page 14,238, Volume 127, the witness says in answer to you, Mr. Chairman:

"A. I think that is summarizing my point of
" view very well".

That question was:

"Q. Quite so, and you say that the only al-
"ternative which presents itself is the al-
"ternative whereby the profits may be reduced
"on the assumption that the body reducing the
"profits is able to insure a proper profit;
"in other words, a public utility?"
"A. I think that is summarizing my point of
"view very well."

And I take it up from there:

"Q. MR. FRAWLEY: And let there be no
"mistake about it, Doctor, putting aside the

"question of a public utility, then you would
"not interfere, regardless of what the profits
"are, you would not suggest any interference,
"regardless, you would still say that no re-
"duction was called for, to use the Chairman's
"expression, regardless of what the return was?
"A. Oh, no.
"Q. Well what is the difference then?
"A. If I saw the refineries making a 100% return
"on their invested capital it would be my
"opinion that a reduction in the price of
"finished products was certainly called for.
"Q. And how would you bring that about without
"declaring it and treating it as a public utility?
"A. In my opinion it would automatically be
"brought about.
"Q. Quite?
"A. By the competition which I conclude is in
"effect in Alberta.
"Q. You are leaving it again to competition?
"THE CHAIRMAN: As I understand the
"witness there are no circumstances in which he
"would advocate Governmental interference.
"Q. MR. FRAWLEY: That is just what I
"want to get at, you said 100% which made it
"a little bit absurd, if I may say so, but if it
"was 20 or 30%?
"A. I still believe that a reduction in the price
"of finished products would be brought about but
"if----

"Q. But my suggestion was, would it be called "for by this or any inquiring board and your "answer is "No"?

"A. Well, Mr. Frawley, that leads us right back "to where I have been, on my assumption as I "told you before, that all my statements and "computations and everything else are based on "the application of the principles of compet- "ition and economic development and economic op- "eration, which is the only basis I can use to "apply to the situation here as I believe it now "exists.

"Q. Well assuming that and using that---

"A. Wait a minute, if you are willing to change "the situation as it now exists and give me your "basis on which I can draw some conclusions, I "will give you an answer but in my honest opinion "you are asking me to assume something which in "my mind is an impossibility and that is that for "any long period of time, more than a few weeks "or months, a situation would exist that these "companies are getting an enormous return on "their invested capital and an enormous return "I would say might be, I would say 100%; I can- "not conceive of that situation coming about "with these conditions and the facts as I now see "them in Alberta.

"Q. Dr. Brown, if you had found that there was a "rate of return here of 30%, instead of what you

"did find?

"A. Greater than 30%.

"Q. If you had found 30 or more, not much more,
"say 35%?

"A. Yes.

"Q. And you had been asked the same question that
"you were asked a moment ago by the Chairman -
"now it is not a public utility, just remove that
"entirely from your thoughts, -it is a purely
"competitive system and a competitive industry,
"would you say, to use again the Chairman's ex-
"pression, that reduction in price was called for?

"A. Yes, I would say that probably a reduction in
"price right now would be called for if in 1930
"the return----

"Q. 1940?

"A. 1938, the return had actually been 30% on the
"invested capital and other conditions are as they
"now are, I would then say that in my opinion the
"price of refined products is too high or the
"price of crude is too low.

"Q. Then it is a matter of degree, it is somewhere
"in between the 30% which I gave you hypothetically
"and what you found, that you would stop saying
"that a reduction was called for?

"A. I mean----

"THE CHAIRMAN: I did not so understand
"the witness, Mr. Frawley, As I understood the
"witness, he says that if it should transpire
"that the companies under consideration had a re-

"turn of 30%, that even so, there should be no gov-
"ernmental interference because that condition
"would right itself in a matter of weeks or
"months.

"MR. FRAWLEY: I see.

"THE CHAIRMAN: By the operation of
"the economic laws and he points to competition
"as the governing factor therein.

"MR. FRAWLEY: Yes, then---

"WITNESS: That is right."

(Page 17,458 follows)

MR.FRAWLEY: Now, therefore, I say even 100%. But he goes on, there is a little bit more elaboration of that. There is only another page.

" MR. FRAWLEY: Then we have been misunderstanding
" ourselves on the meaning of the expression 'called for',
" you do not say at any time is it called for by any
" governmental bodies?
"A Because I do not believe any such condition would come
" about. You asked me to assume conditions as they are.
" Certain facts.
"Q Yes?
"A Now from those facts I arrive at certain conclusions.
" Now I cannot draw any other conclusions based on the
" same facts; when you ask me to completely throw out the
" conclusions which I have already drawn on those same
" facts, I would be hopelessly inconsistent if I did that.
"Q No, but you are open-minded enough to say surely that if
" you had gone into these books and figures and found a
" condition of 30%----
"A For 1938.
"Q You can assume that?
"A Yes, and here I am in 1939.
"Q Yes?
"A And that figure instead of being 12.8% in 1938 was 30%.
"Q Yes?
"A And my estimate for 1940 instead of being 15% might be
" 70%, and you ask me what I would recommend.
"Q Yes?
"A And I would say in my opinion the price of crude is too
" low or the price of the finished product is too high.

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"Q And what should be done about it?

"A Nothing should be done about it because it will

" automatically adjust itself very promptly.

"Q I understand."

There you are. That is completely around the circle. And that is Dr. Brown.

MR. NOLAN: What circle?

MR. HARVIE: It is very consistent. Either public utility or nothing.

MR. FRAWLEY: As Mr. Cottle says, he has a peculiar type of mind. I was only asking him to assume a certain something, as we do so often in our work. But he says "I will not assume. I just cannot and will not assume there is no competition."

THE CHAIRMAN: He says "In a competitive world why talk about lack of competition?"

MR. FRAWLEY: That is right, I suppose.

MR. COTTLE: You get the same thing in his discussion about the loaf of bread. I remember it very well. Mr. Frawley wanted him to assume that the price of bread was 20 cents here instead of 10 cents, but he would not assume that at all. Because, he said, it could not be.

MR. FRAWLEY: So he got to that same place. When I asked him to assume that it would be 20 cents I might have been wrong. My reasoning might have been wrong, but I asked him to assume it and he would not assume it. He could not.

THE CHAIRMAN: Have you reached that stage in your argument, I do not know whether you have or not, and do not let me advance your argument in any way - but there must

come a time when we get the benefit of your views as to whether or not Brown is not right, if you like subject to the qualifications that Dr. Frey makes - that you must never tell a person he cannot make more unless you are prepared to say "We will take ways and means to see you make that much."

MR. FRAWLEY: I see the difficulty precisely.

THE CHAIRMAN: Sometime we ourselves have to look at that and we rather hoped to have some help from you as to these difficulties. You see, if you said to the Imperial "Now 6% is good enough," just following the figure we have been talking about. "That is quite enough for you to earn." Are we to shut our eyes to what we have been told over and again of the hazards of this industry and why they should have a rate different from somebody who is buying a Government bond, or who is under a public utility rate. We know from our studies on another question in connection with this Inquiry that public utility rates, even public utility rates recognize the hazardous enterprise where capital may be all gone, such as supplying natural gas where the pocket may disappear and the utility has nothing left. Now that is recognized in his rate, in a measure at least. He gets a different rate from the person who is handling a telephone where there is no danger of the capital going.

MR. FRAWLEY: Yes.

THE CHAIRMAN: That runs through, as I remember, all the literature about it. Now, here you say 6%. It is not a utility. We do not ask to make it a public utility because we do not want the responsibilities attending to its being a public utility. All right, we put that to one side. We then say "Can you advocate 6% in respect to say refining operations

where they meet a brand new situation. If, for any reason, they more quickly than might be expected find themselves without an adequate supply from Turner Valley of crude oil. Where they are faced with technological advances, at least it has advanced with extraordinary strides. A refinery has a machine to-day of tremendous cost and no good to-morrow; Let one competitor come in with the other type of machine and they have got to get that machine or run at a loss.

MR. FRAWLEY: That is why they should have the 15%, on their own evidence of Mr. Bronsdon and Dr. Brown. But how do they do these things on 5.43%? They do not get 15%. Mr. LeSueur builds his new refinery in East Calgary and the books show he only got 5.43% and I may be paying the shot to enable him to have got the 5.43% but put that aside. He only gets 5.43% and he builds his nice new refinery and all goes beautifully. There is the stumbling block. It is just impossible to reconcile these two ideas. What do these people mean when they say 15%? Mr. Bronsdon says "I would like to have 15%." I bet a nickel he did not make 15% last year. Of course he did not. But he builds his nice new refinery-----

THE CHAIRMAN: Where do you get the 5.43%? Oh, that is all-Canadian?

MR. FRAWLEY: That is where he builds his refinery with.

MR. NOLAN: How many years' profit in Alberta would it take to build a refinery?

MR. FRAWLEY: Profit in Alberta, what do you mean?

MR. NOLAN: About 5, 6, 7 or 8 years, or 12 years.

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MR. FRAWLEY: I am not talking about that. I am trying to reconcile these conflicting ideas about how much money they need.

MR. COMMISSIONER LIPSETT: Might that not, within his whole reasoning, be one of the reasons he contemplates justifying this higher rate? Now, they have the refinery here with its capital all expended on it, and they arrive at a situation where they might be put out of business if they did not modernize that refinery to compete with the B. A.

THE CHAIRMAN: The B. A. would take the business.

MR. FRAWLEY: Surely.

MR. COMMISSIONER LIPSETT: His alternative to getting the 5.57 or 6%, might have been to do, to lose his whole capital investment in this Province, both in refining and marketing, and it might be better business for him to take that 5% rather than lose everything.

MR. FRAWLEY: Surely.

MR. COMMISSIONER LIPSETT: But would not the answer be, or the argument be, that having regard to that risk of that sort that you could get a higher rate of interest?

MR. FRAWLEY: Knowing he only got 5.43% and being fearful that the 5.43 might run down to 3.4, if the B. A. took all of his business. Because all the business in refining and all these matters come down to 5.43. That is a thing I find really difficult to reconcile. I do not think the 15% or 13% mean anything. They do not exist except in these people's minds.

MR. COMMISSIONER LIPSETT: Well, they must have been in existence in the past because the 5.3 now might have been three times that on the original capital put in because I

suppose they were plowing money back into reserves.

MR. FRAWLEY: It is the intricacies of finance, I suppose, that is true. But it comes back to what should be the rate of return. I am not in any sense advocating 6% as the rate of return to which they should be held. But I am considering it on a somewhat different basis. I am trying to show that competition drove them to 6% in the all-Canada picture and why should not I get the benefit of the all-Canada competition and make my prices on that basis. Is there anything in that. That is the heart of my submission. I do not want fixing. I am not public utility. I am not saying I am guaranteeing them 6% as a public utility board says. Nor I am not saying if you go down to 4% I will see that you come back and have 6%. I am not saying that.

THE CHAIRMAN: No, you are saying "I find in all Canada you are only able to make 5%, we will say, and, therefore, that is all we allow you to make in this Province."

MR. FRAWLEY: Yes, perhaps that word is mandatory and an imperative sort of a word, but perhaps it is the proper one. I simply say I want the people of Alberta, now forgetting the fact that they own the oil and have the Number one right to the cheapest price in Canada, all other things being equal, forgetting that, I want the people of Alberta to enjoy that price which in the rest of Canada is such as to earn for the Imperial Oil Limited 5⅓%. I do not know where it leaves me.

THE CHAIRMAN: When you are thinking of the people of Alberta and are protecting them, then is it not a proper thing to make a comparison with the gasoline prices in other parts of Canada with Alberta?

MR. FRAWLEY: No.

J. J. Frawley, K. C.

THE CHAIRMAN: Why not?

MR. FRAWLEY: Because-----

THE CHAIRMAN: If they are not charging the people of Alberta more than they are charging the people of Ontario, what complaint have the people of Alberta? If the price he is paying is like the rest of Canada.

MR. FRAWLEY: I put it this way. If the price of 14 cents in Halifax or 14½ or 15½ in Toronto results in a profit of 5½% to the company then I want the rate--there is no particular magic in the price - I want the price to reflect---or I object to the price in Alberta reflecting a profit or a rate of return in excess of that.

THE CHAIRMAN: You would even if it was less than the price in the rest of Canada?

MR. FRAWLEY: Yes. If the price was 12 cents in Calgary and it still showed a return of 12, 13 or 14% and even with a price say of 17 cents in Toronto, which showed a rate of return of 5%, I would certainly want my price down. It is just I do not want the people of Alberta milked by the Imperial Oil Company to provide the shareholders of Imperial Oil, wherever they live, with a rate of return to get dividends working. I just do not want to be taken advantage of, that is all. Now, if in the application of that submission I have got to go to the length of public utility control or shut up, that I think is an almost impossible, and absurd, perhaps, with respect, position to force me in. I do not want to make him a public utility. I am not concerned with the guarantee end. Not because I would be afraid to take 6%, but it does not lend itself to public utility control. Better have Government ownership.

J. J. Frawley, K. C.

Better the Government buy out the companies and operate them.

MR. COMMISSIONER LIPSETT: Can you put it any higher or any better than saying this, if you once can establish it is 5 or 6% or some other rate of return throughout Canada, that so far as that rate of return is exceeded in Alberta it would tend towards evidence of monopoly, or an actual monopoly which, in turn, would justify Government investigation and Government regulation.

MR. FRAWLEY: A breakdown of competition. A very serious breakdown of competition, yes. Upon the premise that the 5.43% is the result of competition in the rest of Canada then ergo there is a falling down of competition in this Province.

THE CHAIRMAN: The men we have had looking into it here say there is very keen competition in Alberta. It is very real, not only between individual competitors but between the products themselves .

MR. FRAWLEY: And who am I that I should say them nay. But I am saying them nay in part. I do not subscribe entirely to the fact that there is competition.

MR. COMMISSIONER LIPSETT: The only answer to their view as I see it, and as the Chairman puts it, really whatever answer is to be derived considering the lower rate of return in the rest of Canada.

MR. FRAWLEY: Then we range along with that, as to what happened in the Province of Nova Scotia. Well, I will deal with that in good time. Mr. McNeill goes to Halifax and he finds----well, let me discuss that when I come to Nova Scotia.

MR. COMMISSIONER LIPSETT: I was trying to sort out in what

way the rate of return in the rest of Canada affects this, if at all.

MR. FRAWLEY: Affects this? It is just to give us a starting point. Just to give us, I have the feeling, bolstered up and supported by the absence of any contention to the contrary by the company, that in the rest of Canada competition drives down the prices. Competition drives down prices.

THE CHAIRMAN: Your argument is predicated not on competition but on rate of return that they should be allowed. Surely then it strikes me at the moment that if that is the argument - I mean the argument must rest on something and if that is the argument haven't we got to know before we apply it to this Province that it is a fair rate of return on the money invested for the kind of business they are in?

MR. FRAWLEY: Now, Mr. Chairman-----

THE CHAIRMAN: You say competition is driving them to this down there. Well, between competition and Governments, perhaps, they are there. But is it our duty to set as a standard for this Province, to the extent that a recommendation might help to do that, something that might be predicated upon absolutely cut-throat competition that has on more than one occasion practically driven the industry into bankruptcy in the United States.

MR. FRAWLEY: Now, that is right. That is the danger in the submission I make and I say, to neutralize that danger, I point to the absence of any protest by the company to this Board. They knew the things we were going to give our minds to.

THE CHAIRMAN: What would you say to their

probable answer, at least something that I would like answered anyway, whether they put it forward or do not. That the position is that we have not been called upon to meet or enter upon a consideration of the Canadian position.

MR. FRAWLEY: All right.

THE CHAIRMAN: If this were a Dominion-wide Inquiry and they no doubt would say it should have been to be effective for the purposes which you now seek to work out, that it was not a Dominion-wide Inquiry. We never felt we were called upon to deal with it as such. We did not think we were settling down to a five year Inquiry. We thought we were just concerned with Alberta. You come in now and you say "But look at the Canadian picture and be guided by it in determining what you will do with Alberta. Although you haven't any knowledge about it at all. You do not know a single thing as to why it is so."

MR. FRAWLEY: I would have thought, Mr. Chairman, that the Imperial Oil Company would have supposed that this Commission might have been, have foreseen this possibility that it might have been shocked, whether in my urging it or at the motion of the Commission itself, that it might have been shocked to find that the company earned 5 1/13% in all Canada and 11 or 12% in Alberta. And they might have said to themselves "Well, this man Frawley is going to bring that to the attention of the Commission and what shall we do about that? Let us explain to the Commission it is dishonest or unfair competition in Quebec, about this man bringing in these gallons from Texas.

THE CHAIRMAN: Did not they say to themselves "We do not have to meet that ? Goodness knows we have been

long enough and at enough expense to meet what we have to meet."

MR. FRAWLEY: Well, there are two alternatives for me right now. I can say to you "Leave everything as it is, 18, 16 and 13, just leave it there and come with me into a discusson of what we are going to do with Mr. Halverson in trying to get that price down. That is one thing. But rather than just say that and put my benediction on these prices, because it is very bitter for me to have to do it if I have to do it.

MR. NOLAN: Why?

MR. FRAWLEY: Because they are too high, Mr. Noaln. Rather than do that then I ask you to give me a new starting place. The Lord knows it is a small enough reduction I am asking, the reductions are small enough. But give me a new starting place and then come with me into competition and follow me in my discussion of what this Board will do to drive Mr. Halverson to put this price down. There are the two alternatives. There is not a tremendous difference. If it follows that directly I ask you to take 1/10 cents off this price-----

THE CHAIRMAN: Mandatorily?

MR. FRAWLEY: Yes, by order of the regulatory board, and yet Mr. Halverson can take ten times 1/10 cents off to-morrow morning, just as he wishes.

THE CHAIRMAN: That is competition.

MR. FRAWLEY: That is competition. But if you do something it is wholly wrong.

THE CHAIRMAN: If their reasoning is right it is to be borne in mind that Mr. Halverson is not taking

it off. Mr. Halverson is being coerced in doing that.

MR. FRAWLEY: Mr. Mayland takes it off through Mr. Halverson.

THE CHAIRMAN: I have some sympathy with your remarks about the long swing. I too might think it would be very long in catching up. But that is the theory anyway that has been put before us that competition coerces and it is not Halverson doing this. It is just the world situation.

MR. FRAWLEY: As a matter of fact, it goes so far, if it were Halverson doing it it might be wrong. We have to watch out when Halverson does it on his own account. That is when it becomes punitive, they say.

THE CHAIRMAN: Yes, if Halverson does it too quickly he is a bad man. He is putting the independents out of business and he is going into a monopoly. Well, I do not know.

MR. COMMISSIONER LIPSETT: There is another difficulty that is presenting itself to me and no doubt you have thought about it too. To get a basis for your argument I think you have more or less to assume that this all-Canadian rate of return is the result of competition, the competitive system.

MR. FRAWLEY: Oh, yes.

MR. COMMISSIONER LIPSETT: I was just thinking is that a fair assumption to make, to start off with, because it might well be that the situation in the East - take Nova Scotia and New Brunswick, is the result of competition plus legislation, which may or may not be justified there, and may or may not be justified here.

MR. FRAWLEY: I say if it had been anything but

competition I think they would have protested. Mr. LeSueur and Mr. Halverson were very casual and very indifferent about the Nova Scotia legislation. The words are in the evidence. The prices in Nova Scotia are competitive. Which may be the complete answer to what you say.

MR. COMMISSIONER LIPSETT: It may be. There is either actual legislation resulting in something or there is a threat of legislation in both of these Provinces, which is superimposed upon the competitive system.

MR. FRAWLEY: That is going to be my point to you.

MR. COMMISSIONER LIPSETT: They do not rely on competition down there, the Governments don't, to drive the rate of return down to this standard rate you expect.

MR. FRAWLEY: I am going to analyze the correspondence.

THE CHAIRMAN: Once you get into Government interfering you do not know at all. It is a speculation. They might say to the oil company or to the oil industry "You just put that price down to so-and-so to-morrow or else we will make it a lot worse for you." Once you get into that field you cannot surmise about it.

MR. FRAWLEY: I may be anticipating, as you say, when Governments start to interfere---- well, let us take an example. One submission I am going to make is that these 100% dealers' discounts should be abolished, wiped out of the competitive system. Now that is Government interference definitely in the competitive system. I wonder whether that is something that matters. Can we do nothing at all? Can we just do nothing at all about it?

MR. COMMISSIONER LIPSETT: That may be interference to make true competition, and to prevent the approach of monopoly. It may be just as right to assume that down in Nova Scotia and New Brunswick the Governments there would say "Well, you keep down your price here and get your big profit out in Alberta where the crude oil is right on the spot and you can still give them a low price for gasoline." That might be their approach. Not competition at all.

MR. FRAWLEY: Yes, and we are here helpless.

THE CHAIRMAN: It might not be the oil companies but the Governments of other Provinces affecting your consumer out here.

MR. FRAWLEY: And is not that another reason why I should the sooner get a big club in my hand, if they are being clubbed into doing things?

THE CHAIRMAN: And what happens to the corporation when you are all clubbing?

MR. NOLAN: Ah!

MR. FRAWLEY: Again I say the corporation came in here and they talked with complacency when we were talking about Nova Scotia. They should have gone wild and said "We are glad to have an opportunity of telling you of the clubbing we are getting in Nova Scotia." No, the prices in Nova Scotia are competitive. It is a weird and wonderful industry, this industry. Because if there is any clubbing, as Mr. Commissioner Lipsett says, that may be something other than competition is working down in Nova Scotia, you would think that they would have shown it to us as a horrible example to keep away from in Alberta. But why let us speculate at all for a moment. In Nova Scotia they are in there with

the top stop. They do not have any Commissioners carefully analyzing matters and hear our great men from Washington and Ann Arbor. No, they went into top stop legislation with none of that. They might say to the Imperial Oil Company "Well, your profits have got to come down here and you had better go out to Alberta and Saskatchewan where they are not smart enough to move for themselves with this idea." But that is just speculation. But that might be one of the things that is happening. But I always knew I had to face the suggestion that it has got to be one thing or the other. Public utility control all the way with its guarantees and anything, and there cannot be any half measure on the suggestion of Dr. Frey to the Commission. All I am now suggesting to the Commission, and all I am saying is if you are impressed with the suggestions I have made that competition is not effective here in refining or in marketing, those are my steps.

THE CHAIRMAN: Have you any submission, having regard to this industry functioning as it is in the Province of Alberta, with such risks as are attendant upon it, in that particular geographical position, any suggestion, assuming that your argument were accepted, as to what the rate of return should be.

MR. FRAWLEY: I say it should be-----

THE CHAIRMAN: You have told us about 6% and 8% and 10%.

MR. FRAWLEY: I say a maximum of 10%. I do not think this industry should be permitted to earn - and I do not say that offensively I hope - any more than 10%. A maximum of 10%.

MR. COMMISSIONER LIPSETT: Is it earning 10% at present?

MR. FRAWLEY: Not on marketing. It is only earning 7.56. So, perhaps, it is idle to talk about 10% or even idle to talk about 8%. There it is, 7.56%. I am waiting with interest the time when that price will go back, when anybody will attempt to put that price back up higher, unless an extraordinary situation happens. A falling off in the supply of crude. I hope it would not go back up because of an increased cost in marketing. I hope the price will not go back now, surely with the bigger volume and lower cost. I hope the price would not go back up except for the price of crude. And then what is the situation. The company is now making, if it adheres to its present price, using the 1938 cost, 7.56 on marketing. I presume it contemplates that. It contemplates remaining at 7.56%. But surely it has in contemplation that new companies are coming into the picture all the time and these companies cannot do them any good. They can and must do them harm in the way of gallonage.

MR. COMMISSIONER LIPSETT: We are speculating on 1940 in reality, are we not?

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT Assume the marketing picture remained pretty much as it is, which, I suppose, involves the assumption that any increased competition will be counteracted by the increased total consumption and one may play off against the other.

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: But when we come to refining, has it not to be considered that competition is likely to become much keener next year. The British American new

refinery is now being operated and we know definitely there is another new refinery, Mr. Mayland's, which was not in the picture at all in any of the figures we have taken. And then we have this prospect of Mr. Plotkins' refinery.

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: And is not competition becoming more true competition and more intensive in refining? Assuming that there was not real competition and there was very much of a monopoly in the refining end of the business in the past. Is not the general trend of the evidence that that competition is becoming very near true competition if we contemplate 1940?

MR. FRAWLEY: I am not pessimistic at all. I think we need a referee. I think we need someone to watch this industry more closely than it has been watched but I think the trend is downward.

THE CHAIRMAN: That might be something different again.

MR. FRAWLEY: Yes. Of course, in the regulatory board I am going to suggest, I am going to hold a lamp as far as powers are concerned. The powers should be there, whether they are ever used or not. I may have difficulty with the Commission when I get to that. You might ask me what the board should find in recommending price fixing; at the moment it is simply adding that particular arrow to their sheath.

MR. COMMISSIONER LIPSETT: That might be quite a different question because if you had a proper board and, as one would assume, a perfectly honest and impartial board, and if they found----

THE CHAIRMAN: With special knowledge?

MR. COMMISSIONER LIPSETT: Yes, with special knowledge, and if they found other competition as regards price they might find it unnecessary to interfere with price.

MR. FRAWLEY: Yes, they could confine their interference, if there should be any interference, to marketing and so on, or licensing, but always with this residuary power of fixing price if , in any event, for the good of the industry or the public or the consumer, it was needed. That will be my submission when I come to it.

THE CHAIRMAN:A There could be a difference between price fixing at any time and saying that the industry should not have full range, except within certain wide limits.

MR. FRAWLEY: I did not catch the first part.

THE CHAIRMAN: I say is there a difference between having a board or a Government or anyone else fix a price at which the product shall be sold or saying that the price shall neither go up nor down within a certain range without the consent of such a body.

MR. FRAWLEY: I think that is a very close relationship.

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MR. FRAWLEY: I do not know how that would work out in actual practice.

THE CHAIRMAN: For example Dr. Frey says you never need worry about a top-peg; once a product goes down, generally speaking, it stays down.

MR. FRAWLEY: It is hard to get it up, yes.

THE CHAIRMAN: It is the whole story of the industry in America and in this Province too indeed, from what we have told has happened.

MR. FRAWLEY: Yes.

THE CHAIRMAN: So we need not be too worried on the one hand about fixing a top-peg and I suppose equally the industry need not be very worried about the top-peg being there if it always goes down.

MR. FRAWLEY: Surely, it seems to be a meaningless thing, this top-peg.

THE CHAIRMAN: All right, and your bottom peg if ever put in is only to guard against monopoly, is it not?

MR. FRAWLEY: And destruction of competitive forces. which leads to nothing.

THE CHAIRMAN: The whole object of it can only be, "monopoly".

MR. FRAWLEY: Of course I think they have that power, they have the power of the top stop because something may be happening.

THE CHAIRMAN: All right, I say that may be argued as I see it on the ground that it may never be needed but it can harm no one to put it in.

MR. FRAWLEY: That is the thing.

THE CHAIRMAN: Because the evidence before us is

that the industry in America has consistently reduced the price of these products over the years.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And that it has done so in the Province of Alberta over the years.

MR. FRAWLEY: Yes.

THE CHAIRMAN: We have the evidence not only of historically but of the witness Frey who says, "one need never worry really about the top stop ,' he says, ' once it has gone down it stays down. It may go further down." All right, there is your top.

With regard to the bottom there may be no purpose in all the world in reducing prices beyond what competition indicates unless it be to destroy the competitors.

MR. FRAWLEY: Yes, and we have a section in the criminal code which is designed to prevent that but in any event when I come to that my submission would be that it should be a top-stop not a bottom stop.

THE CHAIRMAN: You mean where one corporation, where one corporation cannot run the price down.

MR. FRAWLEY: They cannot for the purpose of destroying competitors charge a different price in one part of Canada than they charge in another part of Canada, something of that sort.

THE CHAIRMAN: Oh, I do not remember the section.

MR. FRAWLEY: It is a new section put in.

THE CHAIRMAN: But it relates to discrimination in parts of Canada.

MR. FRAWLEY: That particular section dealing with

the destruction of a competitor by adopting a price which is purely an expediency and not a genuine price, a price which seeks to drive out a competitor in a particular area.

MAJOR LIPSETT: That does not refer to the situation in Southern Alberta, does it?

MR. FRAWLEY: No, you mean so far as the Imperial is concerned, the prices they are charging there.

MAJOR LIPSETT: There are two different prices.

MR. FRAWLEY: Oh, a special discount.

MAJOR LIPSETT: Yes.

MR. FRAWLEY: Well, I do not like to give off-hand opinions about sections in a Statute without looking at them. I do not know whether it would apply there or not.

Well them, Mr. Chairman, I pass if I may from this.

Now I say that if by any chance, well I say first that we are not content to rest our case here merely requesting a recommendation of a price having to be reudced in the manner I have indicated; even if the Commission said to me, "Now we are prepared to state or recommend what you suggest but is that all the relief you wish?" and I would say, "Certainly not."

I put it to you whether or not the submission which I have just made is accepted or is not accepted, in my submission it is in the public interest that the sanction of law should be given to the marketing practices that will insure the effective working of the competitive forces, either positively or negatively; that will sanction marketing practices that will effectively insure the effective working of the competitive forces I say,

and those marketing practices will be discussed now in some detail.

THE CHAIRMAN: Is this your fourth heading or is this part of marketing?

MR. FRAWLEY: No, this is still part of marketing and I was just going to say, I was coming to that, it is difficult to pigeon-hole this argument, - I am sure my friends Mr. Nolan and Mr. Harvie found it the same, - and something which I have put in a category, now they have put perhaps differently. It does not really matter and their order, I am a modest sort of person, - and I have no hesitation in saying their order is much better than mine, - but it has occurred to me that it is better to put it in as the kind of thing which should be regulated to bring out a better price, and then I go to some other matters which I have discussed in the memorandum called, "Collateral Marketing Matters" and it is exceedingly likely I will come back again to this cardinal principle when I am discussing these so-called "Collateral Marketing Matters", so I do not want to be put into too tight a straight-jacket with respect to the classifications of these subjects of discussion.

Now the first thing I want to discuss is, I have six of them, and I say these are the marketing practices which either the encouragement or the discouragement of these things will, in my opinion, tend towards keeping the price leader, - and frankly, I put it very frankly, - he is the only person we need be concerned with, the only person the consumer need be concerned with, - the consumers' eyes always need to be directed to the price leader, even if he does not buy his gasoline, he must always

have his eyes on him as the price leader because in the whole history of this province there has only been one price leader, with one exceptional exception, one exception in 1936, I mean in regular gasoline; now there was a price leader, I do not know whether you would call the Gas & Oil Products a price leader in third structure but that is a separate matter. Generally speaking there has been one price leader and only one and in 1936 after the Dominion Tariff was reduced on gasoline 1 cent, to 1 cent from 2¼ cents, the Company that made that order and the Dominion Government, that made the tariff effective was the Texas Company and that really was as it should be because whether the Texas Company was losing money before May 1936 or not, nevertheless the Minister of Finance, with some propriety, pointed his finger at the Texas Company and said, "You have a 1¼ cent less cost, laid down cost on the first of May 1936 than you had before the 1st of May, 1936 and you had better see to it that a price drop takes place", that is about what happened between them and so the price was dropped 1 cent, not the full 1¼ cents, the price was dropped 1 cent but they were not the price leader and they never have been. The Imperial Oil Limited is the price leader in this Province and I am, therefore, going to suggest that these six factors be regarded as something which will speed up competition, all looking, all looking to a reduction in the tank wagon price up to a point where that reduction would reach a point where it might impair the ability of the company to carry on:

"(1). Is the posting of tank car prices;

"(2). Abolition of the 100% dealer contract;

"(3). Discontinuance of Ethyl discriminations;"

MR. MACKENZie; You cannot discontinue something which does not exist.

MR. FRAWLEY: It is fitting that Mr. MacKenzie should come in at this stage.

MAJOR LIPSETT: Would you mind repeating that, Mr. Frawley?

MR. FRAWLEY: (3) Is the discontinuance of the Ethyl discriminations;

(4) The posting of wholesale prices at the wholesale outlets in the country;

(5) The expediency of Government operated pilot stations; and

(6) The encouragement of co-operative agencies.

Now the posting of a tank car price, my first proposition is the obvious one, there is no real tank car price in Alberta and I refer you to Dr. Brown, Volume 78, Page 9,041 and 9,042:

"Q. MR. FRAWLEY: In commencing a study of these
" costs, I understand you found there was really no
" such thing as a refinery tank car price, for your
" purposes?
"A Yes, that statement is correct. That price is
" based upon a tank waggon price less certain discounts
" and with some freight and taxes involved in there.
"Q But I mean to say, that is not just quite what I
" meant. In the United States there is a well known
" quoted posted tank car price at the refinery?
"A In some areas.
"Q In some areas at which any person can go and buy?

"A That is right.
"Q Did you find there was any departure from that
" situation when you began a study of this Imperial
" situation at Calgary?
"A No, I have not investigated that thoroughly but it
" is my information that practically no gasoline is
" sold that way in Calgary.
"Q Yes?
"A We find that same condition in parts of the United
" States also. That all of the gasoline which is sold
" either through regular jobber contracts or through
" their own marketing organization.
"Q Now is that why then you take these jobber contracts
" and made them, as you might say, the posted tank car
" price at the refinery for your purposes of determin-
" ing the refinery spread?
"A Yes, that is correct, that there is no posted price
" at the refinery at which jobbers and other people can
" buy.
"Q And so for your purposes you take, you regarded the
" marketing department - you divorced the marketing
" department from the refining department itself for
" the purposes of arriving at the true refining spread
" as distinguished from the true marketing spread?
"A Yes.
"Q And that is why you have laid emphasis on this
" jobber price. That to you is the effective tank
" car price at the Calgary refinery?
"A Yes. If I understand you, yes."

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Now, oh, yes, and then there is something else I should follow up:

"Q I think this should be cleared up now. I hope
" it is not getting too much into marketing. If
" I do not go beyond Exhibit "257", which is a
" sheet of posted prices generally.'

those are posted tank wagon prices, Sir,

" and if I merely put this information to you which
" you will have to assume with me, Dr. Brown, as
" correct until it is put into the record as evidence,
" if you assume with me the posted tank car price on
" Esso?
"A Tank car?
"Q Tank car price on Esso and Three Star gasoline is
" 1½ cents under the posted tank waggon you would
" immediately reject that as the effective refinery
" door price?
"A Unless practically all of the refinery products
" were sold on that basis.
"Q That is true. But if there were added to that that
" practically no part of the product is sold on that
" basis then you would pay no further attention to that?
"A That would have no significance in determining the
" refinery price.
"Q And if I put it to you that was the posted tank car
" price of these two gasolines, then I presume you would
" say there is no tank car price as far as that goes?
"A That is right.
"Q And if I put it to you that the Company for what it

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" calls its Renown Fuel and Renown Gasoline, which is
" a brand which they sell to certain jobbers - if you
" take it from me that is so - the tank car price on
" that is 3½ cents under the posted tank waggon price
" of Esso and Three Star, would you again say it was
" not as far as you were concerned the effective
" tank car price?
"A Unless appreciable quantities were sold on that basis.
"Q And if they were not appreciable, but if they were a
" minor part of the output sold on that basis would
" you again reject that and go to the contract jobber
" price and use that?
"A I would take that into consideration, whatever minor
" factor it was. These prices have not been arrived at
" by any consideration of tank waggon price. These
" represent the averages per gallon on the dollars
" actually received by the company in 1938.
"Q From the jobbers?
"A From the jobbers, yes."

Now then, Mr. Halverson says, - that is what Dr. Brown says, - and Mr. Halverson says, in Volume 85 at Page 9,825:

"Q Now let me put one question to you, there is in
" the City of Calgary in Alberta no open-tank car
" market, you are not selling in tank cars really,
" except to your contract jobbers are you?
"A That is correct.
"Q Now if a group of retailers in the Town of Red
" Deer, grouped themselves together into some sort of
" an association and came to you and asked you to

" sell them gasoline in tank car quantities at jobbers'
" prices, which would necessitate their operating some
" storage, some central storage and perhaps buying a
" tank waggon, what would be your attitude towards any
" such proposal?
"A We have a posted tank car market.
"Q Yes?
"A Available to anyone in any single tank car quantity plus
" 3½ cents below our posted tank waggon prices and that
" would be available to them but for us to make very
" Special prices to them, the same as we do to an establish-
" ed organization like the North Star would merely be
" eliminating our own system of distribution.
"Q Yes, I just want to make it clear and get it on the record,
" you feel you could not treat with those people because it
" would be simply giving to them a certain selected portion
" of your market, a good portion?
"A Yes.
"Q The cream as it is sometimes called?
"A Yes.
"Q And leave you to carry the Province wide organization?
"A Exactly.
"Q I want to be clear about that, so that if any group of
" men, the garage dealers, the motor car dealers in Calgary
" for instance, if they banded together and came to you
" and said they would like to buy gasoline at North Star
" prices you would tell them you were very sorry but you
" could not do business with them at all?
"A It would mean that organizations like that would of
" necessity function in selected areas and the loss of
" gallonage in that particular area would not by any means

" be compensated for by the reduction in expense.

"Q Yes?

"A And the net result would be higher marketing

" expenses per gallon over all in Alberta.

"Q Yes, well it may be perfectly obvious but I want the

" Commission to be quite clear, that this marketing

" system of yours does not permit you to allow a

" retailer to come close to the refinery, that is all,

" you see that is the other side of it, let me put

" it to you ----

"A We have only one price to the retailer, 1 cent off."

Now let me see if I have anything else to quote, yes, a short quotation from Dr. Frey in Volume 130, at Page 14,535; now Dr. Frey says:

"Q Now I would like to have your views upon this

" question, would the existence of an open tank car

" market at the Calgary refinery be a good thing or

" a bad thing in the Alberta marketing picture?"

Well then we got confused as to what that meant but perhaps I had better read it because it is not very long:

"A I think it depends on what you mean by "an oper tank

" car price".

"Q Now then I mean this, I am a service station

" operator in Alberta, or a group of service station

" operators in Alberta, or a group of garage owners

" or whatever you want to call them, and I am able to

" buy, I think, about as much, at least, as the McColl-

" Frontenac bought from Mr. Halverson in 1938, which

" was about 472,000 gallons. I go to Mr. Halverson

" and I ask him to treat me the same as he would treat

" the McColl-Frontenac and I ask him to sell me
" at the refinery door in tank cars. Do you think
" ther refinery should be accessible in that way to
" all buyers who are able to buy in tank car quantities?
"A That would not be an open tank car price. That would
" be contract.
"Q Yes, Perhaps what I should say is do you think the
" refinery should be more accessible to the sellers of
" gasoline than it is at the present time?
"A That depends upon the result you want to produce.
"Q I want to enable sellers to get a better price than
" they are now buying at, which is the tank waggon?
"A For what purpose?
"Q Well, one purpose would be to give them a larger
" spread and make competition more free and in that
" way probably bring down the price?
"A To give them a higher spread to give away?
"Q To give away to the public, yes.
"A Have you any assurance they would give it away?
"Q I am assuming that if they were able to buy gasoline
" from Mr. Halverson at 10 cents whereas now they have
" to pay Mr. Halverson 16½ cents, it would be reflected
" in the market price. I am assuming that.
"A Let us examine what a tank car really is.
"Q That is right. I only asked you to get your views
" on it?"

Now then certainly I want to call your attention to Dr. Frey's answer but it is, well I am going to make a point of it so I had better certainly read it, I

mean I am making a point of this thing.

THE CHAIRMAN: You are reading from where?

MR. FRAWLEY: I am reading from Page 14,536 and I am reading from Dr. Frey's evidence. It really commences in Volume 130 at Page 14,535 and it runs through to Page 14,539 and I am reading at Page 14,536.

"A We have two tank car markets in the United States.
" One tank car market is really nothing but a nominal
" quotation on the part of the refiner to indicate the
" basis on which he is going to calculate commercial
" business and he names this tank car price. Now,
" that price is not for the re-seller. It was never
" even intended for the re-seller. It is intended
" as a base for commercial contracts. Now, on one
" size of business, perhaps, the commercial contract
" is 1 cent over the tank car and another will be
" a half a cent and another a quarter cent; and one
" will be a quarter cent under or a half cent under
" or 1 cent under. That tank car is only a point
" of departure for commercial discounts and the
" commercial discounts are even quoted. I think
" if we could pick up ----- it does not make much
" difference, that does not help me, but I could bring
" you in a statement that I have downstairs of one
" company showing the various percentage of gasoline
" that was sold above and below their basic tank
" car on commercial business. Now, there is another
" tank car market and that is the spot market. The
" spot market, either in the Gulf or in Group 3 or

" whatever it happens to be, represents a quantity of
" gasoline that is not covered by contract. All refiners
" try to cover their business, as far as possible, by
" contract. It is important for a refiner to have an
" assured outlet for his products. He bases his operation
" upon the amount of business that he can assure to himself
" and that is the reason he makes many of these deals so
" that he can have a dependable quantity of gasoline to run
" through his operation month by month, depending more or
" less on the general economic conditions, conditions of
" the weather and so on. But by reason of the fact that
" the refiner is often faced with more crude than he has
" immediate use for, and he has committments that tie him
" to that crude, if he breaks his committments with the
" producer he may never get those connections back; he
" has a certain amount of crude that he is more or less
" tied up with. Now, then, under those circumstances he
" will produce more gasoline than he has contracts to cover.
" So that there is always a certain amount of gasoline that
" must be thrown on to the spot market for whatever price
" it will bring. That market is the open tank car market.
" It is a spot market based on the day to day situation
" as reflected by the activities of the buyers and the
" sellers in establishing the level of that market. Now,
" then, here in Alberta under the pro-ration in Turner
" Valley there is no particular occasion why any refiner
" should run particularly more gasoline than he has occasion
" to use. He may have a little bit over but in view of
" the fact that the field will run at a fairly constant
" rate with not too much fluctuation he is in a position

" to recognize that there is no particular gain in throwing
" that gasoline on to the market at lower than the normal
" expectancy. He had better carry it over in storage
" until next season. Besides, it has another effect. If
" he can make his refinery operation more or less constant
" and build up his stocks in the off season and tear them
" down in the high consumption season he has a better all-
" over operation of his refinery in view of the fact that
" he does not have a terrible threat in the way of hot
" crude or crude that is produced far in excess of the
" market, and there is no occasion for establishing some
" sort of a dumping ground for excess gasoline. He can
" better afford to carry it.
"Q Now, Dr. Frey, I, perhaps, did not make myself clear at
" all. What I am thinking about is, is there a desirability
" of getting the retailer of gasoline closer to the refinery
" than he now is? That is what I am concerned about. I
" am concerned with exploring ways and means of permitting
" the retailer of gasoline to cut around the middle man
" and take his supplies from the refinery. In this
" Province we have none of that and there is, as I under-
" stand, plenty of it in the United States. What are your
" views about that?
"A We have a great deal of it in the United States. We
" have more volume to begin with. You take, for instance,
" trackside operations. Trackside operations, except in
" possibly Edmonton and Calgary, would not be worth the
" snap of your finger because there is not enough volume.
" Those who have made an extensive study of trackside
" operations, which is one of the short cuts that is used

" extensively in the United States, we will take a
" company like the Spur Distributing Company of
" Nashville, Tennessee. They have more than 700
" outlets operating on a trackside basis. I have
" discussed that at considerable length with Mason
" Houghland, who is the head of that organization,
" and I have it from him that they never have made it
" a success in any town of less than 10,000 and 10,000
" with the concentration of automobiles that exists
" in the United States. Now, under the circumstances
" that you have here with only three towns in the
" Province over 10,000, and with a distributing system
" to maintain over a very large are with a very low
" density of population.'

And this is the point, this is the defense:

' it is perfectly natural that the distributors in
" this area should do everything that they can to
" maintain the system that will answer for the whole
" Province. Inasmuch as Lethbridge, Calgary and
" Edmonton will account for a very considerable
" fraction of the total volume of business and if there
" were serious under-cutting in Calgary, Edmonton and
" Lethbridge by establishing these run arounds, the
" distribution for the entire Province would increase
" and the people in the more remote areas would be
" penalized for the activities of the trackside
" operators here.
"Q Thanks."

Now it just happens that I have a little sketch and it must be the very same company that Dr. Frey

is talking about, the Spur Distributing Company of Nashville, Tennessee. This is a little chart I got from the Big West Oil Company in Kevin, Montana. They sent it to me some time ago, perhaps a year ago. Perhaps, I presume there is no reason why I should not show this little chart to the Commission. It indicates what this trackside operation is in chart form, this direct from refinery to filling station operation. It is not anything that anyone cannot understand without the chart, this chart simply indicates what it eliminates in the way of distribution. Now be it obvious or be it not obvious, I would like the Commission to understand precisely what I mean by that.

THE CHAIRMAN: You might show it to Counsel and while you do we will take 5 minutes recess.

(An adjournment of 5 minutes was here taken.)

(Go to Page 17,493)

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What I was going to say, I take it my friends have no objection, I have shown it to them, Mr. Chairman, I was going to put in this little chart. It is a little chart to indicate in chart form what I am talking about, what I am advocating there should be in this Province, at least the availability of such a system, that is all.

THE CHAIRMAN: You are asking to have that marked as an Exhibit?

MR. FRAWLEY: Yes, perhaps that is the best thing to do.

THE CHAIRMAN: What is it called?

MR. FRAWLEY: It is a chart showing the distribution of gasoline from the refinery to the service station.

CHART IN QUESTION IS NOW MARKED EXHIBIT "757".

MR. FRAWLEY: It shows the distribution of gasoline from the refinery to the service station on the one hand, as opposed to the orthodox or channelized system, as Dr. Frey would describe it. It might save time if I took a second and let you have a look at it. It is what is referred to by Dr. Frey as the "Track Side Operation", as the spur system, because it goes from the refinery to the service station tanks. The tank car is unloaded into the spur service station underground tanks, as against the other system where it is loaded into tank cars at the refinery and unloaded at the city bulk station or the country bulk plant, and then goes to the filling station, or wherever the dealers happen to be from the bulk plant. It is the elimination of one at least, and I think in our case

only one intermediate step, namely the bulk station, be it country or be it city. It pretty well speaks for itself as to what it is. Now I want to give to the Commission some breakdowns, some price breakdowns which show.....

MR. COMMISSIONER LIPSETT: That, Mr. Frawley, means that this tank car will go to some village?

MR. FRAWLEY: It had better not be too small a village or they could not handle it. It goes to some place where the business is big enough to warrant the operation. It has to be tank car volume. The business has to be of such volume as to handle business in tank cars. That is quite so.

MR. COMMISSIONER LIPSETT: That assumes, according to what we heard, a ten thousand population.

MR. FRAWLEY: Yes, that was down in the States. They say it does not pay unless it is ten thousand, which would mean in this Province as far as towns were concerned, that we might expect to have them at Calgary, Edmonton and Lethbridge say. He says we cannot have them in smaller towns, and that is his experience. But it does not matter about the size of the town, it is the gasoline volume. Take Red Deer as an example. I do not know at all, I have not studied the gallonage figures at Red Deer to see whether it can be done or not. My only submission to the Commission is whether or not it is not well to recommend that that sort of thing be available. That is all.

THE CHAIRMAN: Would you run spur tracks to every service station in Calgary? I do not understand.

MR. FRAWLEY: No. You see the Imperial has a number of bulk stations in the country.

THE CHAIRMAN: It is a spur track operation. They apparently run their oil directly from the railroad trackage to the track service station tanks.

MR. FRAWLEY: In the city of Red Deer the Imperial Oil Company has a bulk station where they have vertical tanks. That has been limited entirely up to now, and will continue to be probably, to the wholesale business. No retail business there at all. If the Imperial Oil Company put in retail service station facilities there, right there in this wholesale outlet, they would then be operating this spur system direct from the refinery to the retail pump.

THE CHAIRMAN: And that is to say that the public would have to go there and get it?

MR. FRAWLEY: Yes, the public would come in and get it.

THE CHAIRMAN: You are eliminating the service station man?

MR. FRAWLEY: No. There will be a service station man established at the wholesale point. That is looking at it that way. But that is not just exactly what that spur system is.....

THE CHAIRMAN: That is what it would have to be in Alberta would it not? Just what you are now saying?

MR. FRAWLEY: To put the retail service station where the Imperial now has its wholesale outlet?

THE CHAIRMAN: Yes?

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MR. FRAWLEY: That is what it might be in Alberta. It also could be this. The business of the service station warrants, the volume warrants handling the product in tank cars. And that does not mean taking 7000 gallons of products. That I take it means one-third of seven thousand of any one product, because they have compartment cars in which they can move three products in one car. If Mr. Loveseth in Edmonton for instance, who now commands a gallonage of some 200,000 gallons per annum, and he saw that he could make some more money by setting up a service station somewhere in the vicinity of the C.P.R., station in Edmonton, or any other place where it has trackside facilities, he would go to that place and he would erect there tankage, underground tankage, which would fit in with the movement of a tank car of gasoline from the refinery at Calgary. It would go direct from the refinery at Calgary to Mr. Loveseth's service station on the track side in Edmonton, and all that would happen would be and the only interference with the present orthodox system of having Mr. Loveseth's station on Jasper Avenue is, that going to the trackside, near by the C.P.R., station, would be a little more inconvenient. But not much more because the C.P.R., and the C.N.R., tracks for that matter, are located in the centre of the city in Edmonton. That is a system instead of putting the gasoline into bulk stations, because how does Mr. Loveseth get his gasoline now? It moves in tank cars from the East Calgary Imperial Oil Refinery to the Imperial Oil Company's bulk plant on 126th Street West in Edmonton. Then it moves in tank trucks from 126th Street in Edmonton, which is the Imperial bulk plant, to the

corner of 6th Street and Jasper Avenue in Edmonton. That is the movement at the moment. My suggestion is if Mr. Loveseth moved his service station or built a service station - only taking him as a name - would have a service station built near the track in Edmonton, in such a fashion that gasoline could be handled in tank cars, then I want to read something to you as to what the spread would be on which that man could operate.

MR. HARVIE: Could he get a licence do you think?

MR. COMMISSIONER LIPSETT: Just so as to get the system exactly. Take Edmonton. Somebody, this new organization would put in a service station right on the railway siding or beside it?

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: And they would buy a tank car at the Imperial and just pipe it into that service station and have sufficient storage at the service station to take a carload?

MR. FRAWLEY: That is right.

MR. COMMISSIONER LIPSETT: Then you say if they get that that they would compete with all the other service stations by being able to sell at a lower price, is that the way it would work?

MR. FRAWLEY: Quite right. That is what I say is competition, real live competition.

MR. COMMISSIONER LIPSETT: Then the motorist would make up his mind whether he would go into the service station close to him and pay a cent or two cents or whatever it would be more or go away to the railway station and take it by the side of the track for 1 or 2

cents less?

MR. FRAWLEY: That is it exactly. As I say it is not miles away. It is not as though he had to go to the outskirts of Edmonton. The trackage runs right into the heart of the city at Edmonton.

THE CHAIRMAN: Yes, but we are told that the Public would not do that so much, that there are avenues of traffic where people go to and from their offices and that is the reason for these outlets on a preferred street of that kind, so many of them, is that that is where the volume is. The people go there. They do not run around somewhere else, and Mr. Loveseth's problem would be "Having got my service station over near the tracks where I can take it in from the railway track, am I going to get anybody to use it? I have got to make a big capital investment in underground storage or above ground tanks. Am I going to get the volume? I do not know.?"

MR. FRAWLEY: I am wondering if you understand my position. What I say is we have to make an assault on the existing marketing system in Alberta, which, in my opinion; keeps the price up. If, after I have made this assault and if that trackside operation station has been set up, and nothing happens, and it is a complete failure, all right. It did not work. The public goes on and they want to go and they want to continue the wasteful duplication and they want to carry on these two long spreads, in the case of Edmonton, the wholesale spread of 5.18 and a retail spread of 4.5 - they want to carry that 10 cent spread. Then I will have done by duty to them if I show to them through this

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Commission and this Commission through its recommendation what they might have, and if they do not choose to follow it and if they will go on blindly perpetuating this wasteful distribution, I will have done my duty, and this Commission will have done its duty and any Government that seeks to implement its recommendations will have done its duty. I want to bring this to the attention of the Commission and through the Commission to the attention of the Government that ways and means can be devised at least to permit it of being done. Not that we should be content with Mr. Halvorson's statement that " I have a tank waggon price and let the retailers buy at my tank waggon price."

MR. COMMISSIONER LIPSETT: Is not that subject to the serious criticism you say in this method you are attacking the present marketing system in Alberta.

MR. FRAWLEY: The status quo.

MR. COMMISSIONER LIPSETT: The status quo. In fact you are only attacking it, even if we did not say 10,000 and made it 5,000 if you like, aren't you only attacking the position in half a dozen points, or a dozen points or twenty points throughout this entire Province and giving certain reductions at those points with the counterbalancing disadvantage of the companies having to charge more at all other points.

MR. FRAWLEY: But we must not be too easily scared by the Imperial saying "Oh, yes, I will have to put the price up". You see Mr. Halvorsen had me a little scarod one day when I was discussing with him the possibility of the people in Calgary being able to get a better price. He quickly turned on me and he said

"I can zone the Province for you and then the farmers up around Cereal will have to pay a lot higher price." He knew that was not falling very nicely on my ears. So I bided my time, and left the discussion right there. I do not want to put the price up to the farmer. But is it not a strange thing that if somebody did that, even if this Commission never mentioned it at all, but the Spur Gasoline Company came to Edmonton and tried it out, what would Mr. Halvorsen do? He would meet it. He would say "That is one of my marketing difficulties and it is something I have to meet," and probably everything would be changed.

MR. COMMISSIONER LIPSETT: But to do that under the present set up this Spur distributing company would have to build their own refinery.

MR. FRAWLEY: No, there is where I am coming to. There is where something mandatory would have to be done. I say let Mr.Halvorsen sell his gasoline to any white man or black man or anybody else in Alberta who has the money to pay for it, and sell it to him at 10 cents a gallon. Let us not talk about this 1½ or 3½ cents. Let us get down to what is the real tank car price in this Province. Let there be an order made by the regulatory body, which I propose should be set up, and let them say that gasoline should be sold at the refinery door at 10 cents a gallon in tank cars. Not to the North Star Oil Company and the Canadian Oil Company and two or three others, but to any others. To Frawley, Cottle, Smith or Brown or anybody else who has the money to pay for it. What we do with it, it is our own business. If we set up a marketing operation and lose our

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shirts, that is our trouble.

MR. NOLAN: I am afraid I do not follow this very well. How are you going to get Mr. Loveseth to create a new service station at the track-side if he does not want to?

MR. FRAWLEY: That is my point, I do not want to be misunderstood. It won't just happen. But it is the availability I am talking about.

MR. NOLAN: And what is he going to do with the service station he now has?

MR. FRAWLEY: I mentioned Loveseth because I was thinking of the volume that would be required. He has 200,000 gallons a year. But let us forget about Mr. Loveseth. I simply say let there be posted on the refinery door in East Calgary a price at which Loveseth or anybody else can come and get it. That is all. I am talking about availability.

THE CHAIRMAN: What is the volume in a tank car?

MR. COTTLE: Six or seven thousand gallons.

MR. FRAWLEY: Let us say six to eight thousand gallons. The modern cars, if you went to buy them you could buy them with three or four compartments.

MR. HARVIE: Three quite commonly.

MR. FRAWLEY: That would be six or seven thousand gallons.

MR. COMMISSIONER LIPSETT:: Then you say, Mr. Frawley, that anybody who could buy 8000 gallons?

MR. FRAWLEY: Of all products, yes.

MR. COMMISSIONER LIPSETT: In one lot should get

it at the lowest wholesale price.

MR. FRAWLEY: Yes, that is what it comes to. For my purposes it need not be right down to their 10 cents. Mr. Halvorsen in his answer said those are large buyers. Well now, let us see right there. The McColl Frontenac Oil Company bought from Mr. Halvorsen and sold about a half a million gallons. About a half a million gallons in 1938. But they have the privilege of buying at the refinery door in East Calgary for 10 cents.

MR. COMMISSIONER LIPSETT: Yes, but of course they are regular wholesalers as far as that is concerned. That is their business. They are regular jobbers.

THE CHAIRMAN: I suppose they are under contract?

MR. FRAWLEY: Oh yes.

MR. HARVIE: And national buyers.

MR. FRAWLEY: No, the contract, that was all cleared up. I think it was the Canadian Oil Company said "We can leave the Imperial tomorrow if we like." But let us look at the McColl Frontenac. What are the McColl Frontenac in this Province? It might be useful to see what they are, what they have got and what they own and operate.

MR. NOLAN: You are taking probably the smallest.

MR. FRAWLEY: The McColl Frontenac operates two bulk stations in this Province, At Calgary, they operate two bulk stations and three overhead storage tanks with a capacity of 15,000 gallons each. At Edmonton three storage tanks with a capacity

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of 15,000 gallons each. That is Edmonton and Calgary and that is all. And they operate some service stations, three or four, I suppose, and they operate those in the sense that they lease them. They operate them like the Imperial does, they lease them. Their gallonage was 472,000 gallons in 1938. But apart from the McColl - of course I suppose that was certainly the smallest.

MR. NOLAN: And that is why you picked it.

MR. FRAWLEY: Yes, I am talking about minimums.

MR. COMMISSIONER LIPSETT: I do happen to know that Canadian Industries Limited will sell blasting powder on a quantity basis to anybody, and they will sell two tons to you or me at exactly the same price that they will sell it to a hardware store. They will give him that price it is true for one ton, and they won't give it to you, but if you take two tons they will give it to you at the same price they give it to him. Then if you take a carload lot they will give it to you at a very much lesser price, no matter who you are.

MR. FRAWLEY: And everybody has the privilege of buying in carload lots at carload lot prices.

MR. COMMISSIONER LIPSETT: Yes. That seems to me to be somewhat different because that does not involve setting up this station for serving it.

MR. FRAWLEY: Oh yes. I suppose the Canadian Industries say "Here is a carload of blasting powder at our door, pay for it and take it and you can do with it anything you like. You can throw it in the Bow

River and we do not care whether you are a re-seller or who you are." There is freedom of business there. All I object to is putting up a stone wall around that refinery in East Calgary. That is my point, if I have any point at all, that is the point.

MR. COMMISSIONER LIPSETT: Perhaps it is not a very good illustration that I took because that is a case of a complete monopoly as far as manufacturers are concerned.

THE CHAIRMAN: What do you say Mr. Halvorsen's position is as against that?

MR. FRAWLEY: Mr. Halvorsen says it is going to play the deuce with my marketing system.

MR. COMMISSIONER LIPSETT: His own distributing system?

MR. FRAWLEY: "My Imperial system that I have developed up over the years here."

THE CHAIRMAN: What is the volume and page?

MR. FRAWLEY: Volume 85, Page 9,825, 9,826 and the top of 9,827. I read that all to you. I think that very well puts the other side of the story, puts up Mr. Halvorsen's position.

THE CHAIRMAN: In effect what is it, without reading it?

MR. FRAWLEY: In effect, he says "We have this price of 3½ cents below our tank waggon," but the other was to make a very special price to them, something very special the same as we do with the larger companies like the North Star - you merely are eliminating under our system of distribution - all I say is if you make

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them a special price as they call it to the Canadian Oil Companies and the North Star Oil Company and the Union Oil Company and the Maple Leaf Petroleum Limited and the McColl Frontenac Limited, and in the case of the last named company it does not seem to matter very much, that it is a mere dribble, they still sell it to them at this 10 cents at the refinery door. Whether it should be 10 cents or not is a question. But it should be the same price. It should be this 3½ cents. Now I want to show you what it would mean in dollars and cents why I am talking like this, and what I am shooting at in the way of a spread when I am seeking to get the refiner closer to the service station. The Edmonton retail price breakdown reads as follows, on the 1st of December 1939 and that gives full effect to these recent changes. This is rather an interesting statement and if I read it all down or I could put it in like some of the other things we have been doing, we might make an exhibit out of it and have it in in chart form.

EDMONTON RETAIL PRICE BREAKDOWN
IS NOW MARKED EXHIBIT "738".

THE CHAIRMAN: What is it?

MR. FRAWLEY: It is a breakdown of the Edmonton Retail price, right back to the refinery. In fact it is a build-up. The way Mr.Cottle has prepared it for me it is a build-up from the refinery door to the pump in Edmonton, and this is what it shows:-

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EDMONTON RETAIL PRICE BREAKDOWN

As of 1st December, 1939.

Refinery door price	10.	34.01%
Add tank car freight	2.72	9.25%
Laid down wholesaler's cost	12.72	
Add wholesaler's spread	5.18	17,62%
100% dealer's cost	17.90	
Add retailer's spread	4.50	15.31%
Retail price	22.40	
Add provincial gasoline tax	7.	23.81%
	29.40	100.00%

Now then we have two spreads there, a wholesaler's spread of 5.18 and a retail spread of 4.50, making altogether 9.68. Now that is the thing that I am talking about, Mr.Chairman. There is this spread taken by these two units in the distribution. Mr. Halvorsen takes 5.8 cents and the retailer takes 4.5 cents, or 9.68 cents. Now I think it is a matter of some concern as to whether the track-side operation is necessary or not.

THE CHAIRMAN: But he says "If we do not keep up our own distribution system we cannot function; that that won't work in Alberta. Have we got to have a new system for the two or three places where it will?" That is his position I suppose.

MR. FRAWLEY: That is his position. Do not interfere with my marketing system. I do not want my marketing system interfered with by some

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amateur idea that you have been told about by somebody. I say that in the best of spirits.

THE CHAIRMAN: He says something more. "That my distribution system is essential to this kind of a Province we are living in, sparsely settled as it is, and I am not going to break it down for a couple of isolated adventurers."

MR. FRAWLEY: He would break it down if somebody came in and did it under his nose. That is competition. He would have to turn about and face it.

MR. COMMISSIONER LIPSETT: Does not that rather assume there is somebody who could afford, as a proper commercial venture, to come in and do that? But that rather begs the question. Your objection, I suppose, is a commodity that is costing 10 cents at the refinery door and there is practically 100% put on to it before it reaches the consumer.

MR. FRAWLEY: Sure.

THE CHAIRMAN: And you eliminate all jobbers do you?

MR. FRAWLEY: I want to get the retailer closer to the refinery. I want to eliminate the middle man if he can be eliminated. I do not want someone standing in the way and saying "No, this refinery gate is locked as far as you are concerned, but it is open as far as The North Star is concerned." I say I am a large retailer and I am faced with two or three different middle-men.

THE CHAIRMAN: I suppose not only the retailer but on your argument, carried to its logical conclusion, I suppose the ordinary consumer who will buy 8,000 barrels of gasoline at a crack should have the

privilege of doing it. Eh?

MR. FRAWLEY: That will be getting down to what Major Lipsett says the Canadian Industries is doing. And it is of course all right if you want to draw a distinction, and that is something we have to discuss when we come to the commercial consumers' account as against the dealers'. Mr. Halvorsen says he will sell it to anybody and I take it he means to consumers or re-sellers at 3½ cents under.

MR.NOLAN: In single tank car quantities.

MR. FRAWLEY: Yes, in single tank car quantities at 3½ cents under, but the very special price he keeps for the people who make special contracts with him. Well there is nobody now tied up by contracts. But I think we must let light in on this refining industry, let the consequences be what they may. If in the end because of the obligation of the Imperial Oil to serve the sparsely settled parts of this Province the suggestion I am now making cannot ever be brought about, well let the people know. That is all. Let the people know what stands between the refinery and the service station. It seems to me that there is strangulation there, a deadlock, a lack of accessibility that should be there to have free play of competition.

THE CHAIRMAN: Well now, what does our marketing expert say about that? Would you say that he was with you?

MR. FRAWLEY: Oh no, because this is about the way he leaves it. He goes over this at some length but in the last few words he says. "Now under

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"the circumstances that you have here with only three towns in the Province over 10,000 and with a distributing system to maintain over a very large area with a very low density of population, it is perfectly natural that the distributors in this area should do everything that they can to maintain the system that will answer for the whole Province. Inasmuch as Lethbridge, Calgary and Edmonton will account for a very considerable fraction of the total volume of business, and if there were serious undercutting in Calgary, Edmonton and Lethbridge by establishing these run arounds, the distribution for the entire Province would increase and the people in the more remote areas would be penalized for the activities of the track-side operators here."

MR. FRAWLEY: That is what he says. As far as I am concerned I am going to argue throughout the whole of my further submission that we must encourage run arounds, we must encourage everything that will bear down on the man that makes the price of gasoline in this Province.

MR.HARVIE: And increase the price to the outlying districts.

MR. FRAWLEY: No, I certainly do not suggest that.

MR.HARVIE: Dr. Frey does.

MR. FRAWLEY: No, he says it might have that effect, that is all, but I am going to suggest them all to this Commission.

THE CHAIRMAN: Well, Mr. Frawley, we will adjourn now until Wednesday morning at 10.30 o'clock.

MR. FRAWLEY: Will we say 10.30?

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THE CHAIRMAN: Well, all right, we will start at 10 o'clock.

(The Inquiry was here adjourned to be resumed at 10:00 A.M., December 27th, 1939).

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J. J. FRAWLEY

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 27th, 1939

VOLUME 156

FINAL ARGUMENT

BOX 84

10.00 A. M. Session,
27th December, 1939.

MR. FRAWLEY: Mr. Chairman and Mr. Commissioner, when we rose I had commenced a discussion of the necessity and advisability of there being introduced, by regulation or otherwise, a series of what I have called, "Marketing Sanctions" - perhaps a very bad expression, - but a series of sanctions for the improvement of competition.

My premise, of course, is that the price of gasoline has not yet come down to where it should be and can be in the Province of Alberta but there seems to be difficulties, serious difficulties, surrounding the fixing of a price, the obvious one where we rush headlong into, which of course, is of strangely practical importance, of attempting to fix a price but stopping short of making it a public utility and so I am forced, as it were, to turn my back, after having made the serious submission which I have made, of course, and which of course I am not abandoning, but I am forced to leave that part of my argument entirely now and advocate to the Commission that there should be and must be imposed upon the price leader, imposed upon the industry for the purpose of activating and speeding up the ordinary forces which motivate the price leader in reducing the tank wagon price. Now I say no more about that. I merely repeat that because that is the general principle which underlies this phase of my argument, the necessity for there being an improvement in competition.

Now the first one I spoke of was the necessity of posting, a compulsory posting I mean of a tank car price, and I do not want to be misunderstood about that. I can see difficulties, of course, but I simply

say there should be an availability of refinery gasoline at refinery prices throughout the industry and that we must not, - just because it is the Imperial Oil's system, - we must not blindly adhere to this sytem which Mr. Halverson says will be wrecked, will be impaired, if there should be a direct refinery to retailer distribution. I say we must not stand in awe of Mr. Halverson's system if what I am suggesting will not work practically, then it will not work and that is all there is to it. All I am suggesting is that there be an availability of refinery gasoline at refinery door prices to the retailer and let me right now join up Item No. 5 in the six items I gave you the other day in this phase of my argument. Item No. 5 was the expediency of Government operated pilot agencies. Let me bring that up and mention it now because it needs only to be mentioned in conjunction with Item No. 1, which I am now discussing, the posted tank car prices because the thought there is the same, Mr. Chairman. If there be any retailers who can for financial reasons or otherwise embark upon, embark upon the direct refinery to retailer distribution, then I suggest that the Commission should seriously consider whether or not it should not be recommended that the Government operate, experimentally, of course, of course it would be experimental to begin with, and may just be a bad experiment, I want to face the situation relatively, I am merely striving to suggest things which in my opinion are worth trying and so I join up now this question of posting a tank car price and a direct refinery to retailer operation, with a fifth item of the expediency of Government operated agencies.

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Now the second item is the abolition of the 100% dealer contract ----

THE CHAIRMAN: Before you go on Mr. Frawley ---

MR. FRAWLEY: Yes, Mr. Chairman.

THE CHAIRMAN: You say there is no reason why there should not be refinery door prices to retailers.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Does this boil down then to a submission that involves the elimination of the jobber?

MR. FRAWLEY: No, jobbers, I am coming to something which is rather akin to that, yes. It is all wrapped up in one in a sense you see, if we had, if we had a direct refinery to service station operation it would not necessarily mean the elimination of the jobber. Well it probably would mean, yes, ultimately then, the jobber would be left with the country trade. That is true, the farm trade. But what I am speaking of at the moment, I cannot conceive of operating, Mr. Chairman, except in the very large centres, I cannot conceive if it, as the province is presently constituted, of operating except in the populous centres.

THE CHAIRMAN: That is the refinery door price to retailers in the populous centres.

MR. FRAWLEY: Yes, that is really what the experts say, I mean what they say when they are discussing it at all. They say that they cannot conceive of it being, I think Dr. Frey told us that it did not, it was not capable of successful operation in towns of less than 10,000. Well

our picture here is, of course, we have Calgary and Edmonton and then Lethbridge and Medicine Hat and then we are finished. They are the only populous centres we have.

Now I advocate the abolition of the 100% dealer contract for this reason. In my view ----

MAJOR LIPSETT: Mr. Frawley, before you go on.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Your idea then was that the Government first, first of all there should be regulations insisting that the refineries would sell to anybody at tank car prices.

MR. FRAWLEY: That is right.

MAJOR LIPSETT: Anybody who is able to buy at tank car ---

MR. FRAWLEY: That is right.

MAJOR LIPSETT: And secondly that the Government should then set up retail outlets in the populous centres as an experiment, buying their gasoline at the tank car price and retailing it at what sort of spread then.

MR. FRAWLEY: Well you see, that is why I introduced in the evidence the other day, I wonder if I filed it, we were, I think we had just about reached the stage and perhaps I had not filed it and I had better do it now. If I filed these little summaries which are merely the breakdown of the prices and have it handy for the Commissioners so you can see where the spread is that would be available, what the available spread would be, I have three of them, Calgary, Edmonton and Red Deer and probably following the practice we have had , if I left them with the Reporter and they could be referred to by number. The

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Calgary retail price breakdown ----

THE CHAIRMAN: That will be Exhibit ----

MR. FRAWLEY: I think Exhibit "739" will be the next.

THE CHAIRMAN: Was not Exhibit "738" the breakdown of the Edmonton retail prices?

MR. FRAWLEY: Yes, that is quite right so I will just put in along with this, these other two. Exhibit "739" will be the Calgary retail price breakdown.

Now in offering the next Exhibit, it is the Red Deer retail price breakdown, I want to ask the indulgence of my friends and perhaps their consent.. It is practically nothing at all that it amounts to but I got from the Texas Company the Red Deer retail price. As a matter of fact we had it. We had it now by adding the Imperial's wholesale tank wagon to, by adding the spread in Exhibit "329" to that. I have that anyway but I brought it up-to-date, is really what I did, I got from the Texas Company the Red Deer prices. My friends may remember. In any event, there is no objection, the retail price in Red Deer today is 29½ cents.

(RED DEER RETAIL PRICE BREAKDOWN PRODUCED AND MARKED EXHIBIT "740".)

Now I can answer Mr. Commissioner Lipsett's question. The situation will be something like this. In Edmonton the available spread will be the spread between the laid down wholesalers cost of 12.72 cents, that is the laid down wholesalers cost which is arrived at quite simply by taking 10 cents as the refinery door price and adding 2.72 cents as the tank car freight per gallon, that is 12.72 cents and the spread will be between that figure and 22.40 cents which is today's retail price in Edmontoh, ex tax.

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MAJOR LIPSETT: 22.4 cents.

MR. FRAWLEY: 22.4 cents. The gasoline tax is 7 cents and the going retail price on Three Star gasoline at 29.40 cents. Incidentally, I have on this Exhibit "738", and the Commissioners may be interested in it, the percentages, the percentages, what each item is of the 100%. For instance the refinery door price is 34.01% of the total. The tank car freight is 9.25%c The wholesaler's spread is 17.62%; the retailer's spread is 15.31% and the gasoline tax, of which there has been a considerable discussion, is 23.81%, that is at Edmonton.

Now at Red Deer the spread on any trackside operation which I have been discussing, refinery to retailer, would be between 16, would be between 11.36 cents, which is the laid down wholesaler's cost at Red Deer, being 10 cents plus 1.36 cents freight, the spread there would be between 11.36 cents and 22½ cents, which is the retail price in Red Deer ex tax.

In Calgary the spread would be, of course, between 10 cents and 19½ cents, which is the retail price ex tax, so that in Calgary we have a spread, a gross spread to work on of 9½ cents.

In Red Deer of 22.50 and 11.36, 11.14 cents.

You know that is of more than passing importance it seems to me. 11.14 cents, gasoline costs 10 cents at the refinery and there is 11.14 cents, 11 cents of a spread, of course, that is because they are getting too much money in the City of Red Deer to sell gasoline on the wholesale prices, it is 5.9 cents which is

something I will have something to say about later when we are talking about the control or the lack of it which the supplying companies have over the retailers but in passing it is worthy of note that the retailers in Red Deer get 5.9cents, practically 6 cents in Red Deer for selling a gallon of gasoline and there is no more need for it there, Dr. Frey tells us, then in Calgary and Edmonton but they get that spread, that is what the spread would be there, and then in Edmonton it will be the difference between 12.72 and 22.4, 9.68 cents in Edmonton.

Now that is all I have to say about that subject. Those are the spreads and in my humble submission the Commission should give its consideration to a recommendation not only that there be posted a price with the view of the establishment of a direct operation and failing that, - and I do not advocate that the Government bother its head about it at all except in the event of the failure on the part of the retailers to indulge in it, and then so far as I go then is that the Government, if it is still thought to be a workable idea and this Commission should recommend it as a good idea, then the Government should give consideration to seeing what the result would be of an experiment of that kind.

THE CHAIRMAN: An experiment with pilot stations to create what spread?

MR. FRAWLEY: Well now I do not answer that question.

THE CHAIRMAN: Where do we go, you say the tank car price should be compulsory for those who can take the volume.

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MR. FRAWLEY: Yes.

THE CHAIRMAN: You are concerned with the public I take it, the buying public, the fellow who comes up with a motor car and what are you accomplishing for him and how?

MR. FRAWLEY: Well, I am accomplishing a cheaper price on gasoline. I am accomplishing a cheaper net automobile price to him. I suggest that ---

THE CHAIRMAN: Yes, you are accomplishing that to the retailer.

MR. FRAWLEY: Oh, no, no, you see if, I do not mean for a second, I am very glad to follow it through, I do not mean for a second that the Edmonton retailer should lay in his gasoline at 18.72 cents and continue to sell it at 22.4, now, with a 9.6 cents spread though.

THE CHAIRMAN: All right, you have advocated means for making it possible for him to buy in large quantities at a cheaper price.

MR. FRAWLEY: Yes.

THE CHAIRMAN: As compared with the present one.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now, yet we have not got that to the public.

MR. FRAWLEY: Well let us say for the sake of this submission that 4½ cents spread is a fair spread. that is what it is today in Edmonton?

THE CHAIRMAN: Yes.

MR. FRAWLEY: Let us say 4½ cents is a fair spread and then I will get it to the consumer presumably at a decrease of 5.18 cents, that is the other spread. You see I am certainly expecting that the retailer ---

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THE CHAIRMAN: I was just wondering if you associated with the compulsory posting of the tank car price, the compulsory posting of a spread on the part of the retail dealer.

MR. FRAWLEY: When I come to that I am going to point out the difficulties in that. We have very little evidence here to show whether in Calgary or Edmonton that 4½ cents is just right or not, and because of some difficulties which I will point out, being mixed up with other kinds of businesses and so on, he just assumed, and I think it is fair to assume that if the retailer ----

THE CHAIRMAN: Mr. Halverson's evidence would certainly suggest the spread was not too great for retailing gasoline.

MR. FRAWLEY: It is interesting to note this, when Mr. Halverson came and spoke of the spread, in Calgary it was 4½ cents and in Edmonton 4 cents and that was something that concerned the Commission and all of us as we went along and Mr. Halverson said he did not think that 4 cents was enough but I do not think he suggested there be any more than 4½ cents. I think he did say frankly that a 4½ cents spread, well whether taking Mr. Halverson's advice or not, the retailer in Edmonton has gone to 4½ cents.

MR. NOLAN: He said he did not think 4½ cents was too high, Mr. Chairman. He thought that 4 cents was too low.

MAJOR LIPSETT: I think he suggested that in some places it should be 5 and thatoutstanding, out of the way places, might be as high as 6.

MR. FRAWLEY: Yes, he did say that and that is where he and Dr. Frey parted company. Dr. Frey said there was no

reason at all, handling charges are really less in the small points, but if there is any, I think we had perhaps better stop and see what Mr. Halverson said but my impression was, whether by silence or otherwise, he thought 4½ cents was all right.

MR. NOLAN: Volume 132, Page 14,714.

MR. FRAWLEY: He says this at Page 14,714 of Volume 132:

"A. But in dealing with the realities of the situation I
" want to reiterate, the question is not so much in the
" past few weeks, that the retail margin in Calgary has
" been too high, at 4½ cents; the retail margin at
" Edmonton is 4 cents and in my opinion has been too
" low.

"Q THE CHAIRMAN: Oh quite, quite, something is a
" proper spread and that being determined, I am only
" repeating it myself to get it clear and I want to be
" very clear, that being determined, you would say that
" every reduction which you make in price thereafter,
" should go to the public even as every increase in
" price that you might make thereafter should be paid
" by the public?"

Then Major Lipsett: "Mr. Halverson is this 4½ cents ---

THE CHAIRMAN: Did he answer that first or what?

MR. FRAWLEY: He said "substantially that", that was his answer, "substantially that", that was his answer to your question and then you said, "I think Mr. Halverson's position is quite clear", and then Major Lipsett followed:

"Q MAJOR LIPSETT: Mr. Halverson, in this 4½ cents,
" is it your view that the spread should be the same,

J. J. Frawley, K. C.

" whether it is Ethyl or "Q" or Acto, of 4½ cents?

"MR. HALVERSON: Yes, I would say the same,

" especially of Ethyl and "Q" brand. In some

" communities they take a smaller margin on third-

" grade. They are not doing it here."

And then Major Lipsett continued:

" But your view is that the spread that you put on

" of 4½ cents should apply equally to all three

" products."

"MR. HALVERSON: I would say so."

I do not know but I do not think Mr. Halverson suggested it for anything but the cities of Calgary and Edmonton.

MR. NOLAN: He gave a sliding scale.

MR. HARVIE: I have a note here on a question from the Chairman to Mr. Halverson, he mentioned 4½ cents appropriate to Calgary and Edmonton and in Red Deer and Drumheller 5 cents and in smaller points up to 6 cents.

THE CHAIRMAN: That may be what I was thinking of, where is that to be found?

MR. HARVIE: That is just my note on it. I will try and find it.

MR. FRAWLEY: It must be just here some place.

(Go to Page 17,522)

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MR. NOLAN: What day is it?

MR. HARVIE: The 26th of October.

MR. FRAWLEY: Yes, Volume 132. You see the Company when they operated stations themselves, Mr. Stevens told us at one place, the spread in Calgary was 4 cents and he told us how it went up. It went up because the deglers got together and took that extra half cent from the tank waggon reduction which the Company announced.

MR. NOLAN: Page 14,741.

MR. FRAWLEY: Which we all thought was not the right thing to do. Yes, here it is. Oh yes.

" THE CHAIRMAN: I would like to ask
" you before Dr. Frey goes back on the stand and
" you may be further examined upon it at a later
" time. But if you will please just consider
" this. You said 4½¢ dealer margin was in your
" opinion reasonable and proper for the cities
" of Calgary and Edmonton?
"A Yes. "

Now I need not perhaps run that back.t It apparently was given just prior to that and we have him now saying that is so, wherever he said it the first time.

"Q I want you to tell us shortly, if you will please,
" what you consider the position with respect to
" the other points to be served by your Company in
" this Province?
"A Our views on that are not quite so definite. There
" are very small hamlets and there are towns that

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" are larger. I would say anything up to 6¢
" would not be excessive, considering all the
" factors.
"Q In what places?
"A A 6¢ margin at places like - well say 5¢ for a
" town like Red Deer should be sufficient and
" Drumheller whereas you go down the scale and it
" might be 6¢ and that was sufficient for most all
" points except under extraordinary conditions.
" I did not make it very clear when I was on
" the stand before that I consider from the
" standpoint of the dealer 4⅝¢ is really the
" minimum he had to have. I consider 5¢ the
" maximum and so under present conditions we
" recommend 4⅝¢ as the minimum and in no di spar-
" aging way we say 5¢ as being the maximum. I
" just want to clear up that point.
"Q I understand you. Now you think 4¢ is not
" enough?
"A I do not.
"Q That 4⅝¢ I do not remember your language,
" but 4⅝¢ should be adequate for the cities
" of Edmonton and Calgary?
"A That is right.
"Q And 5¢ for places like Red Deer and Drumheller?
"A Yes.
"Q And places of comparable size?
"A Yes.
"Q And from there graduate upward to a maximum
" of 6¢?
"A Yes.

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"Q In the smaller hamlets?
"A Yes, with some exceptions perhaps in the far
" away places but 6¢ should be the practical
" maximum.
"Q All right. I want to be clear on that. Thank
" you very much.
"A You are welcome. "

Then you see Dr. Frey when he came on, I think the only thing he added to that was that he did not think when you got into the smaller points the higher spread was justified because of the lower handling costs.

MR. NOLAN: He did discuss the Calgary and Edmonton spreads? Dr. Frey at Volume 133 at Page 14,891. He said there might be a justification for the difference between them, but they were both pretty close to right and neither one could be very far wrong, or words to that effect.

MR. FRAWLEY: And the Edmonton retailers have taken care of that now themselves and they are the same. Now Page 14,891.

"Q There must be something devised must there
" not to try to satisfy the requirements of
" the retail trade. First of all do you not
" think there is something at first blush in
" any event wrong with there being a 4¢ spread
" in Edmonton and a 4½¢ spread in Calgary. I
" am not saying at all now which is the right
" one.
"A Also leaving out the question of margins.
"Q Oh yes?

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"A Just as a matter of observation it would
" seem at first look that the two should be
" essentially the same. But I do not know
" positively that there is not any justification
" for the difference. There may be a justified
" difference. They are both pretty close to
" right and neither one can be very far wrong.
"Q But what you do think is wrong as I understand
" your evidence, is the means adopted to bring about
" that increase of ½¢ in Calgary over Edmonton,
" that does not appeal to you?
"A That does not appeal to me. That to me is col-
" lusion.
"Q One matter arising out of that. Mr. Halverson
" said yesterday in dealing with service stations
" spreads that there appeared to be no reason why
" the spread in some outlying point should not be
" larger. It had to be larger than the spread
" in the cities and this Exhibit "322" does
" indicate a great variety of spreads all over
" the Province. I think Drumheller was mentioned
" yesterday. Well, comparing Drumheller with
" Calgary, we know Calgary to be 4½¢, is it not.
" Drumheller at the date of this Exhibit was 5.6¢.
" THE CHAIRMAN: That is Exhibit "322"?
" MR. FRAWLEY: Exhibit "322". It was
" 5.6¢, the same kind of spread as Calgary 4½¢ to
" 100% dealers of service stations. And a place
" like Red Deer, just picking out some of the
" larger places, a place like Red Deer 5.3¢ and
" Lethbridge 5¢ and Three Hills, where Mr. Cottle

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" found a long spread at one time, 5.7¢ now
" over the tank waggon. In any event without
" going through all these points because every
" single little place is there thanks to Mr.
" Stevens this Exhibit was compiled with a great
" deal of trouble on the part of his company -
" now what do you think of this business of the
" need for a longer spread where the gallonage
" is less in the rural parts of Alberta?
"A I should say that except in very isolated areas
" and areas very unfavourably located with respect
" to winter traffic there would not be any
" particularly good reason for there being any
" marked difference in margin between one area and
" another. I should say that it would be logical
" to look for about the same margins in most every
" town. That it is our experience that most of
" the margins in any particular area in the United
" States are about the same whether they are in
" towns or in the country and I should think that
" it would be normal to expect that here. "

THE CHAIRMAN: What page is that?

MR. FRAWLEY: On Page 14,892 in Volume 133. So now I go back and I say I can perhaps do more than assume, I think I can say with some confidence on the evidence that 4½¢ seems to be a proper and reasonable spread in Edmonton and Calgary. Now I say that if it is a larger volume, if all the other factors remained the same and we had this larger volume, that somebody could certainly expect that the man selling this gasoline direct from the refinery would not want any more than 4½¢. If he did

there would be about a 5¢ reduction in the price of gasoline at once and in Red Deer considerably more. Of course Red Deer is wrong anyway. Mr. Halvorsen says 5¢. That is he says 5¢ for a town like Red Deer, which happens to be one of the ones he mentioned, and they are getting almost 6¢, they are getting 5.9.

THE CHAIRMAN: Well, Mr. Frawley, I just want to follow through as you go. Your suggestion is a compulsory posting of tank car price. I understand that anybody who can buy in volume, if you had your way, would get it at the tank car price.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now the object of that I take it to be is that that person who can so buy will sell it more cheaply to the public than he has theretofore been able to do.

MR. FRAWLEY: Yes, Mr.Chairman. A considerably reduced laid in cost, how much I do not know.

THE CHAIRMAN: What is going to be the practical effect of that if it were done? There are a few, relatively few, are there not, who buy in tank car lots?

MR. FRAWLEY: Who can buy in tank car lots? Yes, unless they were grouped. Unless there were some sort of group buying. Probably they could supply all of the gasoline in Calgary and Edmonton, and it might be supplied in this fashion by group buying. Just erect a little storage, or some storage facilities and take delivery from the tank cars, by tank truck and that is all the operation that would be needed.

THE CHAIRMAN: I was wondering if

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you were not forcing one of two things, either a monopoly with the elimination of the small dealer who could not buy in tank car lots, or the person who could buy in tank car lots just profiting themselves with that much greater spread.

MR. FRAWLEY: The latter thing I would not have at all. If there were to be any compulsion, I would certainly impose some compulsion there. I would not permit him to take a 9¢ spread.

THE CHAIRMAN: He is just sitting up where all the other dealers must sit in order to live. Supposing that all your dealers in Calgary other than two could not buy in tank car lots, just by way of illustration.

MR. FRAWLEY: Yes.

THE CHAIRMAN: But they were not making too much. They were just getting what you submit to us is perhaps sound on the evidence, 4½¢?

MR. FRAWLEY: Yes.

THE CHAIRMAN: What happens to the two people who can buy in tank car lots. They say "Well, we cannot cut this price because our competitors cannot live on any less. If we get a monopoly here the Government will probably do something about it." So they say "We have a greater buying power and like every other body we will take advantage of it to get something cheaply. But we do not pass that on to the public. We just keep the price where it is", which the evidence before the Commission says is the right spread for the dealers who are not buying in tank car lots. Now what is the logical result? Either that person who can buy in tank car lots makes a

lot of money.....

MR. FRAWLEY: Yes,

THE CHAIRMAN: Or he takes the advantage of his ability to spend money and he cuts the price down. If he reduces it as you suggest by 5¢ no other dealer can work at all because he is only getting 4½¢ now. He would be working for half a cent loss than nothing. Then you have a monopoly at once. Or what?

MR. FRAWLEY: First of all it is the alternative I look at. It might not be a very good answer to you, Mr. Chairman, but I dislike very much the folded hands attitude; just let it stay on. There is too much between the refinery door and the pump. There is too much being taken.

THE CHAIRMAN: I am just looking for light. There is no use taking a step unless you are prepared to take all the other steps to accomplish the results, whatever they may be.

MR. FRAWLEY: Let me point out what might be the logical development; that there should be set up in Edmonton a tank car buying agency. I have in my hand what would happen. There is the wholesalers' spread in this breakdown of 5.18¢. That is not the cost. You see I have got it into Edmonton at 12.72¢. I have it landed in Edmonton at 12.72¢. It costs 2.72¢ to get it to Edmonton. The very next thing that is added is 5.18¢. That is not the cost of delivering it around the city of Edmonton. That is this famous cost of Mr. Halvorsen's, this marketing spread of Mr. Halverson's that takes gasoline all over the country. He adds it right into the Calgary price like he adds it in the Provost price and the Grande

Prairie price. But it does not cost anything like that to take that gasoline from a tank car on the tracks in Edmonton into some storage.

MR.HARVIE: Is there any evidence to that effect?

MR. FRAWLEY: To what effect?

MR. HARVIE: That it does not cost anything like that.

MR. FRAWLEY: I know this, the 5.18¢ is the gross marketing spread for operating all over the Province. I am simply putting it to the Commission that to empty a tank car of gasoline into a storage tank and then take in tank truck to the service station, if that costs 5.18¢ then somebody else had better do the handling of the gasoline business and that is all. That is looking after the whole Province, the 5.18¢. I suggest to you rather than have a monopoly that all of the retailers in Edmonton be privileged to buy more directly, that is all, more directly. What I am urging to this Commission is something that is now the present fact in the food industry. I am simply suggesting that you get down to where on basic commodities, whether it is sugar or gasoline, there has got to be more direct connection.

THE CHAIRMAN: I follow that.

MR. FRAWLEY: Between the factory and the store.

THE CHAIRMAN: And I am saying what are the mechanics of it? You say the closer you bring the consumer to the refinery door the better. You are interested in the consumer. I say "All right, assuming that is the desideratum, what are the mechanics?"

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MR. FRAWLEY: You cannot drive me too far, Mr.Chairman, on the mechanics,because it has got to be worked out. It has never been done, thanks to this system under which we are now operating. It has never been done or even thought of. I am suggesting it now for the first time.

THE CHAIRMAN: If the scheme appeals to us surely we would haveto suggest the mechanics.

MR. FRAWLEY: If the principle, being one that at least would be a step in the right direction, if I cannot give you the complete mechanics I will do my best. I cannot give you all the mechanics. I cannot give you the cents per gallon of cost. I simply say I have given you a chart to indicate what the operation is, that is one operation. That is direct track side operation. Now I am enlarging upon that in answer to your suggestion so as to let all the retailers in Edmonton, taking Edmonton, to get the benefit of it. And I say that the retailer in Edmonton should be able to buy direct from the refinery through some central purchasing agency in the City of Edmonton, which business would be devoted entirely to the one operation, just simply unloading the gasoline from the tank cars into the storage and out to the retailers' pumps. That is all a simple operation. Not mixed up with filling cans with Marvelube and filling drums for the farm business and the one thousand and one things that go on now in the Edmonton wholesale outlet of Imperial Oil. The Edmonton wholesale outlet of the Imperial Oil is a large affair which takes care of the operation I am speaking of, unloading gasoline out of tank cars into retailers'

pumps. That is one thing. The other thing they do is to look after the farm business. Loading barrels and shipping them to farmers; they look after all the lubricating oil business; a large operation. I want the gasoline to go more directly from East Calgary to Jasper Avenue in Edmonton. How how to work it out?

THE CHAIRMAN: As you say one means would be setting up an agency for making a larger distribution, I take it an agency operated for the benefit of and paid by the retailer.

MR. FRAWLEY: Yes, they would have to assume the costs.

MR. NOLAN: And who would pay for the storage?

MR. FRAWLEY: The retailer would buy his own tank waggon and build his own storage, whatever was necessary. If he could not save 5.18¢, then nothing happens. It is an experiment, and even if it costs some money it would be an attempt to break down these barriers. That is my point. I am not satisfied with laissez-faire, just leave it as it is, and because it has been going on for the last twenty years let us leave it for the next twenty years.

THE CHAIRMAN: What would you think of a refinery door price available to anyone in any quantity, the Ethyl scheme?

MR. FRAWLEY: You say the Ethyl scheme? Now that gives me.....

MR. COMMISSIONER LIPSETT: Mr. Frawley, if I am not interrupting. Do not take it as in any way having any feeling against your plan at all. It is to try and help out

your argument. Must not you begin with a fixed price at the refinery? That is to say, does it not involve fixing the price at the refinery otherwise you would have a company giving a tank car quotation which would be their general tank car quotation, and wholesale discounts off to their wholesale companies, whoever they might be. Would not your first step be you would have to, by authority, fix the refinery tank car price to avoid these discounts?

MR. FRAWLEY: No, because you see there is now a refinery door operation, a refinery door transaction. There is no contract. We have been told there is no contract. The McColl Frontenac Oil Company buys its gasoline at the refinery door today. It can buy it from Mr. Harvie's clients tomorrow. The North Star Company buys from the Imperial today at 10 cents and they can buy from Mr. Harvie tomorrow, and so it goes for the Canadian and the Union.

MR. COMMISSIONER LIPSETT: Mr. Brownlee cannot get that price?

MR. FRAWLEY: Yes, he can get that price tomorrow if he wants to, but he has just got a good arrangement with the intermediary company and he wants to take that. Sure he could get it tomorrow.

MR. COMMISSIONER LIPSETT: Well could he? Is that sound? Because if that is right could not any two or three retailers in Edmonton organize a little wholesale company and get the same price that the Maple Leaf gets?

MR. FRAWLEY: That is what I am urging there should be. There is no privilege about it at all.

MR. COMMISSIONER LIPSETT: Is not the only reason you are urging it because they cannot get it today?

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MR. FRAWLEY: Sure they cannot get it today. But the U. F. A. central marketing organization, I think it is in evidence, Mr. Brownlee says Mr. Halvorsen offered him that to start away with, and then they figured out the Maple Leaf arrangement and it was more satisfactory for various reasons and they took the Maple Leaf offer.

MR. COMMISSIONER LIPSETT: If that is right could not half a dozen retailers in Edmonton organize a small wholesale company?

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: Then you do not want any legislation, or even recommendation?

MR. FRAWLEY: Mr. Halvorsen has made it plain he will not sell to them. It upsets his marketing arrangement, but selling to the U.F.A., does not upset his marketing arrangement.

MR. NOLAN: That is not the point put to him, if the retailers in Edmonton formed themselves into a wholesale group and bought in large quantities, that was not brought up.

MR. FRAWLEY: That is just what was put to him.

MR. COMMISSIONER LIPSETT: Without going into the individual case, Mr. Frawley, does not your proposition involve in fact that the posted tank car price at the refinery should be the lowest jobbers' price?

MR. FRAWLEY: Yes. But I do not need any legislation fixing that price. Mr. Halvorsen says just this at Volume 85, Page 9,825. I said to him:-

"Q Now let me put one question to you, there is
" in the City of Calgary in Alberta no open tank
" car market, you are not selling in tank cars
" really, except to your contract jobbers, are
" you?
"A That is correct.
"Q Now if a group of retailers in the Town of
" Red Deer, grouped themselves together into
" some sort of an association and came to you
" and asked you to sell them gasoline in tank
" car quantities at jobbers' prices, which would
" necessitate their operating some storage, some
" central storage and perhaps buying a tank waggon,
" what would be your attitude towards any such
" proposal?
"A We have a posted tank car market.
"Q Yes?
"A Available to anyone in any single tank car
" quantity plus 3½ cents below our posted tank
" waggon prices and that would be available to
" them but for us to make very special prices
" to them, the same as we do to an established
" organization like the North Star would merely
" be eliminating our own system of distribution."

MR. COMMISSIONER LIPSETT: That is the whole point. You sell to them at 3½ cents below tank waggon price not at 7 cents or 6 cents below the tank waggon price.

MR. FRAWLEY: That is my point, I do not want to have anything to do with having anything to do with the jobbers' price. The experts say "How is the gasoline moving from the refinery?" We look around

and we find it is moving from the refinery at 10 cents which the experts say is the refinery price in Alberta.

MR. COMMISSIONER LIPSETT: Very well. Is not your first step in the legislation, or whatever would be necessary to compel a price, a tank car price to be not 3½ cents below the tank waggon but the full 7 cents, whatever the jobbers' price is?

MR. FRAWLEY: Yes, it seems to be. I agree it would be some compulsion.

MR. COMMISSIONER LIPSETT: The first step involves fixing a price at the refinery door.

MR. FRAWLEY: In view of what Mr. Halvorsen says, yes. Quite so.

MR. COMMISSIONER LIPSETT: Subject to this that you would not fix the price yourself. I mean your proposition does not involve fixing the price, but involves giving it to everybody at the price fixed by the company.

MR. FRAWLEY: Extending the buying privilege at the refinery door. Let me say this, it arose out of what the Chairman said a moment ago. We are talking now about tank car movements latterly, which would involve storage. Now there is something else that must be mentioned. We have the Great West Distributors that are tank car buyers from the British American. They do take some goods away by tank car but they take the vast majority of it away from the refinery in tank trucks. They have their arrangements. They have their tank car price, but it actually moves from the refinery in tank trucks. I merely mention that to indicate that there may not be the necessity of establishing storage in Edmonton. Trucking from the refinery to Edmonton direct into underground tanks

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of the retailers would serve the purpose. I mention that to indicate there is.....

MR. COMMISSIONER LIPSETT: That puts your proposition so much further that the lowest wholesale refinery prices must be given not only for tank car lots but for tank truck lots.

MR. FRAWLEY: No, I say tank car lots. I say tank car lots. Mr. MacKenzie buys in tank car quantities. He is really and actually a tank car buyer. But it is all the same to the refiner how he takes it away, or apparently it is. So they let him take it away in tank truck quantities. Mr. MacKenzie's trucks are just constantly coming and going to the refinery.

THE CHAIRMAN: What is the point of that? The handling, is that saved? If they are taking it away in trucks that expense of tank waggon work is there is it not?

MR. FRAWLEY: Yes, but it eliminates the necessity of moving the tank car, which cannot leave the tracks, and when you get it to Edmonton it is still not anywhere, if I may use the expression. Then you have to unload it out of the tank car into intermediate storage and then into tanks of the retailers, whereas the truck operation eliminates that one operation completely.

THE CHAIRMAN: You are saying now it should not be in tank waggons, or in tank trucks, it must be tank car lots?

MR. FRAWLEY: Tank car lots.

THE CHAIRMAN: What is the advantage to the Imporial Oil Company shipping out a tank car as distinguished from sending it out in trucks? It is handling

is it not?,

MR. FRAWLEY: Yes,handling.

THE CHAIRMAN: All right. Now you say that Mr. MacKenzie does not get it away in tank cars, he get it out in tank trucks.

MR. FRAWLEY: Yes.

THE CHAIRMAN: So the handling is there?

MR. FRAWLEY: Yes, at the refinery.

THE CHAIRMAN: Yes. Down at the refinery and yet he gets a tank car price, so it cannot be because of the handling only, if you are right. They can get more money for a tank car?

MR. FRAWLEY: All I say about that is, I do not want a man to be privileged to go in with one tank truck, one isolated tank truck for 500 gallons or 1000 gallons, and get the tank car price. I want him....

THE CHAIRMAN: Well I am just wondering, arising out of your discussion only - I had not thought about it really - as to whether or not going as far as you do with your submissions might not involve consideration of a refinery door price, with a minimum quantity, whatever may be fixed upon. But a price that obtains for everyone regardless of how much you take, which as I understand is the Ethyl Company's principle. You have to take a tank waggon, at least a carload - or now down to half a carload - but you get no better price if you take 100 cars.

MR. FRAWLEY: Yes, the price per barrel of the fluid, whatever it is.

THE CHAIRMAN: Yes, and the great difference is only a matter of convenience and safety in handling freight, as I understand it. So that to all

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intents and purposes, they have one price regardless of quantity. Now if you are urging what you are urging, what is wrong with saying "Well here is a minimum quantity. There is the refinery door price for all who just come for it."

MR. FRAWLEY: You see the MacKenzie operation is worth while thinking about.

THE CHAIRMAN: For everybody who wants to come for it.

MR. FRAWLEY: Come and take it away in a tank car or tank truck. It always struck me as being a fiction, and I am not using the word in any critical sense at all, but Mr. MacKenzie buys a lot of gasoline. You only have to look at the records to see that he does. But he does not want it in tank cars except in very isolated instances. Well, except in a few instances. He hauls it away in tank trucks. Why? His operation is that kind of an operation. He has underground storage tanks, and whenever you have underground storage that means truck operation.,So he trucks it from the Calgary Refinery all the way through, I am sure, to Edmonton. Mr. MacKenzie is doing that physical thing I am talking about, just that and nothing else. Why cannot any Edmonton retailor that wanted it and who was willing, he having enough volume - there might be some volume, some minimum volume for which he should commit himself - I would think he should be expected to commit himself to the refinery for some minimum volume - but as to how he takes it away should not matter because we have the precedent of the British American Oil Company and Mr. MacKenzie's company.

MR. COMMISSIONER LIPSETT: If that principle were

adopted, Mr. Frawley, for Edmonton, the same thing I suppose could be adopted by a group of smaller retailers at four or five villages or towns on the way up. The Imperial dealer or the B.A. dealer in the various towns could form a little buying pool and truck it in tank car quantities to five or six different points.

MR. FRAWLEY: That is what is actually going on.

MR. COMMISSIONER LIPSETT: That is really what I was thinking. Is not that really what the wholesaler is doing in effect?

MR. FRAWLEY: The present wholesaler?

MR. COMMISSIONER LIPSETT: Yes.

MR. FRAWLEY: All the trucking wholesalers are doing that I take it?

MR. COMMISSIONER LIPSETT: You think if the retailers had that profit spread among them in five or six villages, that would reduce the cost somewhat?

MR. FRAWLEY: Yes, it would reduce its cost in Edmonton and Calgary pumps, and in the centres that could handle it.

MR. COMMISSIONER LIPSETT: I can see then, Mr. Frawley, that if the Government put up half a dozen filling stations in Calgary or two or three, and two or three in Edmonton, and sold on say a 4½ or a 5 cent margin, that they could reduce the price of gasoline in Edmonton er and Calgary by 4½ cents or 5 cents. But what happens to the rest of the Province?

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MR. FRAWLEY: Well now I am not unmindful of that.

THE CHAIRMAN: I am anxious to know what will happen to the other dealers in Calgary who cannot buy that tank car, what are they going to do, the Government is in business, the Government is the distributor of gasoline in Calgary and the other fellows who cannot get it in tank car, they are not going to continue in business at a loss of half a cent a gallon, I mean they cannot I do not think.

MR. FRAWLEY: No, Mr. Chairman. If they do not enter into a buying association, a buying pool, a buying arrangement, then it seems what you say will be the logical conclusion and so perhaps the scheme falls to the ground.

THE CHAIRMAN: Not necessarily. We just want to be sure that we understand how you are going to reach through that to the bitter end. Supposing we adopt it, then we certainly are not going to leave it up in the air, a nebulous thing. I would think his Honour would expect us to say something concrete. Here we have a new scheme, all right, here is how it works out and here is where it leads to, here are the steps.

MR. FRAWLEY: Here are its advantages and here are its disadvantages. I want to educate the people; the people of Alberta have no idea where the difference is between the refinery and the pump.

THE CHAIRMAN: I do not think unfortunately

that we can stop there, on the one hand saying "Here are the advantages", and "Here on the other hand are the disadvantages", "Now you work at it". I think when we get all done discussing the advantages and disadvantages that it would be necessary to say that we would recommend something or why talk about it. Now that is my notion about our duty, whatever may be your duty in the matter of making submissions.

MR. FRAWLEY: I feel that it is my duty to submit a scheme to the Commission for its consideration. If they think well of it they will recommend it but I think you can only come to the point, I think you must say that-----

THE CHAIRMAN: We have studied it for a year and this whole picture should not be left in the air about what we think about it, we, the ones who have studied it.

MR. FRAWLEY: I am not unmindful for a moment of what will be done, but that does not deprive me from recommending it. If Mr. Halverson is ready, because Mr. Halverson is still the man in Alberta, he still has his outlying system to keep up. The farmers have got to get their gasoline and if Mr. Halverson cannot adopt my scheme, well and good, I have simply done my duty to point out what are its possibilities.

THE CHAIRMAN: And I am saying, assuming his scheme is wrong, Mr. Frawley, we are clearly entitled to understand what you would substitute for it.

MR. FRAWLEY: Well I would say this, Mr.

Chairman.

THE CHAIRMAN: Because we are certainly not going to say, surely,"discard a scheme which is in existence because in the course of time something else may evolve" I mean we must say "discard the scheme which is in existence because here is a better one that we are prepared to recommend as the result of the evidence which was brought before us".

MR. FRAWLEY: Here is what I would say---

THE CHAIRMAN: Or reasonable inferences from the evidence.

MR. FRAWLEY: Here is what I would say, someone asked me "How far is the retailer in Alberta away from the refinery". The answer is "He is a considerable distance away". "Why"? "Because there has been interposed between him, for several reasons, which the Imperial Oil has defined, there has been interposed between the retailer and the refiner the Imperial Oil Province-wide marketing system" and "What does that involve" and the inquirer is answered "That involves adding 5.18¢ to the price of gasoline immediately. 5.18¢ is added" to the laid in cost in Edmonton to make up the price charged to the dealer, that is 5.18¢ to keep up the Imperial Oil's Province-wide marketing system. Well"can anything be done about it" is very much of a question, very much of a question, "can anything be suggested" and my suggestion is a recommendation which may bring certain retailers closer to the refinery. Now I think I have explained as fully as I can what the mechanics would be. The consequences, the mechanics of

actually getting the gasoline into the retailers' pumps at Edmonton would be simply to have a compulsory, to have a price of 10¢ per gallon, the final tank car price at Calgary, made available to anybody who would buy a certain minimum quantity of gasoline per annum to be taken away in either tank cars or tank trucks. If in tank cars that would necessitate the operating of some intermediate storage system if Edmonton. If in tank trucks it could be done without the intervention of any intermediate storage system; that would put the gasoline, in my submission, into the tanks of the retailer for about 5¢ less I suggest and then it is expected he would be able to sell at less and then you say if the minimum quantity were so large that the smaller retailer, the average retailer, could not participate then one or two things would have to happen, the business would all gravitate into the hands of these retailers who could get closer to the refinery in that way or the retailers could enter, form an association for the purpose of dealing direct with the refinery through a central purchasing agent.

Now I did not understand, Mr. Chairman, you expected me to carry it any further than that, I mean that is a clear-cut scheme in my submission, setting up of a buying association in Edmonton, or wherever this point would be, to deal direct with the refinery and that would put it at an even cost into the small retailer and the large.

THE CHAIRMAN: And would you fix your

spread between the dealer and the public together with the fixing of your tank car price.

MR. FRAWLEY: I do not go any more than 4½¢. I say 4½¢ should be the spread between the consumer price and the laid-in cost.

THE CHAIRMAN: But do you advocate the fixing of a 4½¢ spread.

MR. FRAWLEY: I will have something to say about that when we get to spread but I would say now "Yes", that I think that is a spread that could safely be fixed because it is the spread that is adopted by the industry and it is a spread that I do not think would work any hardship on any of them.

THE CHAIRMAN: And you say everything between the refinery door price and this 4½¢, it is in the nature of a savings.

MR. FRAWLEY: Everything is a saving.

THE CHAIRMAN: Yes, everything that is saved goes to the public.

MR. NOLAN: And what happens the wholesaler.

THE CHAIRMAN: That is a further question and then something more of course----

MR. FRAWLEY: I do not quite understand "What happens to the wholesaler".

MR. NOLAN: He goes out of business, I take it.

MR. FRAWLEY: Qua distributor in Edmonton, I presume maybe he does.

THE CHAIRMAN: Another thing, Mr. Frawley,

what about the farmers, people in the remote parts of the Province? You say some of this is picked up now by the spread which obtains in the Cities of Edmonton and Calgary.

MR. FRAWLEY: Yes.

THE CHAIRMAN: That there is a charge there which has to do with Mr. Halverson's Province-wide marketing system.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now supposing you succeed in eliminating that, what is going to happen to the farmer in the outlying parts of the Province. You may say quite properly, I am not saying it is wrong, "Oh well let the rest of the Province look after itself. If it is going to cost more than that for the rest of the Province because of my new scheme in Calgary and Edmonton, let it cost more", is that what you say.

MR. FRAWLEY: No, I see no reason why---

THE CHAIRMAN: You cannot keep taking things away all the time and not putting anything back. If his spread is right as a marketing spread, if he is not making too much Province-wide, as a marketing matter, if you accept that premise----

MR. FRAWLEY: I think he is spending too much money.

THE CHAIRMAN: Well if you accept that the marketing Province-wide is not costing too much, then the taking away of a marketing profit in one place is going to mean a greater marketing cost somewhere else, is it not?

MR. FRAWLEY: Unless there is a saving. He just draws in his belt a little bit, Mr. Stevens does, and he makes on his country business just the same. It may not be a proper way to answer you, Mr. Chairman. Here I am just advocating this as a suggestion but supposing tomorrow any company you like, perhaps the man from Nashville Tennessee, that Dr. Frey was talking about, came up into Alberta and said "I am going to distribute gasoline this way". Mr. Halverson would have to take it in his stride, have to take whatever competition was imposed upon him in his stride and that is what I say happens to the country-wide marketer, it is just an accomplished fact from Mr. Hogland, of Nashville, Tennessee coming in.

THE CHAIRMAN: But is it the same thing now? It is before us that they have to take into their stride everything which comes to them by way of competition, that might seem to be all right, that is one thing, to expect them to say "We are willing to meet competition, we may have to run at a loss for a year or two years to meet competition and if it is a foolish competition we will run at a loss rather than lose our position in the country because we know that ultimately the foolish competition cannot keep up and in the long swing we are back on our feet again". Now that is one story. "Certainly I have to meet this cut-throat situation right now, we will take it in our stride, yes", but "it is another thing for the Government to say that I have to run at a loss and take that in my stride and I have to continue to, but when they want me to run at a greater loss still, that I must

take that in my stride too". I suggest to you that that reasoning would lead to the abandonment of any capital investment whatever, if carried to its logical conclusion.

MR. FRAWLEY: Yes.

THE CHAIRMAN: They might say, "No, we have to take these other things in our stride, yes, but when it comes to a loss of our capital we will get out of here".

MR. FRAWLEY: Well I do not anticipate---

THE CHAIRMAN: If it is demonstratable, that there be very much, too much marketing profit, Province-wide, and it seems arguable that there should not be and very arguable that it should be taken off perhaps in the places you suggest but if you are going to argue that this marketing profit is not too great then if you are cutting off here, you make it impossible to do business elsewhere and you ask them to take it in their stride. that may be not sound. If there is competition, they would have to take it in their stride.

MR. FRAWLEY: There may be no answer. I suggest if competition comes in they would have to take it in their stride but there may be no answer to this, that there may be no reason for me trying to rashionalize this industry in this Court Room. I can suggest places where we can break down these long spreads.

THE CHAIRMAN: And all I am asking you to do is if you hope, we will do something towards, if

you want it to be rashionalized, let me put it, then somebody has to do it, well all right, if it is sound to do it somebody must do it and presumably your suggestion is that the industry will not do it themselves.

MR. FRAWLEY: I do not say they will not but I say it is very problematical that they will not be able to do it.

THE CHAIRMAN: Then who is to do it? If you cannot suggest a way to do it and you want it done, I do not know of anybody who has acquired more knowledge in the last year and a half of the oil industry, than you , outside of those in the industry itself.

MR. FRAWLEY: That is why I suggest the Government must experiment to see what can be done about it. Perhaps I am not answering your question.

THE CHAIRMAN: No, because all I am putting to you is if it is desirable that the Government should do something, their actions should be intelligent actions and it should be predicated upon the result of our labors and we should be able to put intelligently before them what they should do in our submission.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And if you want us to do that for them, you ought to be able to concretely put them to us.

MR. FRAWLEY: Well I cannot do any more than to read to you again, Mr. Chairman, what Dr. Frey said at page 14,539, in which he is asked about this operation, what is essentially this operation, at page

14,539:

"It is perfectly natural that the distributors "in this area should do everything that they can "to maintain the system that will answer for the "whole Province".

And if I cannot, if this operation which I suggest cannot be established without imparing----

THE CHAIRMAN: Where is that?

MR. FRAWLEY: I have given you that already, Mr. Chairman, but you can check it, Volume 130 page 14,539.

THE CHAIRMAN: That is Dr. Frey's.

MR. FRAWLEY: That is Dr. Frey.

"Inasmuch as Lethbridge, Calgary and Edmonton "will account for a very considerable fraction "of the total volume of business and if there "were serious undercutting in Calgary, Edmonton "and Lethbridge by establishing these run- "a-rounds, the distribution for the entire "Province would increase and the people in the "more remote areas would be penalized for the "activities of the track-side operators here".

And when he says "the distribution for the entire Province would increase", I presume he means the cost of distribution.

THE CHAIRMAN: Undoubtedly.

MR. FRAWLEY: And I will repeat the last that I said:

"The distribution for the entire Province
"would increase and the people in the more
"remote areas would be penalized for the
"activities of the track-side operators here".

Now I do not want that at all.

THE CHAIRMAN: That is just what I was trying to put to you, as Dr. Frey seems against it---

MR. FRAWLEY: I stated that, that what Mr. Halverson says is against it, what Dr. Frey says is against it and there it is but I am not content to just do nothing about it but if it is fatal to the whole Province-wide system then we do nothing about it and I pass on to something else.

THE CHAIRMAN: Supposing we thought, Mr. Frawley, instead "Well now there is a lot in what Mr. Frawley is saying to us, his method of getting closer to the consumer in the large centres at least", we have to think about what these witnesses have said and it is a fact on the whole marketing operation they were not in favor of it.

MR. FRAWLEY: Surely, you have to.

THE CHAIRMAN: And do you not have to, when you suggest this to us, do you not have to tell us the effect on the whole marketing situation. If it is going to ruin the farmer, so that we may weigh it too.

MR. FRAWLEY: Oh well I suppose I may have to adhere to my statement the greatest good to be done to the greatest number and if by giving the people of Edmonton cheaper gasoline through this operation,

the people in the remote areas are going to suffer, then Edmonton and Calgary have to continue paying more for their gasoline. I am content with that. I have to be. This is an agricultural Province and in many ways the cities have to pay for the country. We are not going to remake the Province and we will just have to carry on as we are, that is perhaps the answer to it and then let people know that we cannot get the pump any closer to the refinery because of the scattered areas of the Province and that is all there is to it and the Commission will probably do that and explain that but I just warn them, I would like the Commission to indicate that this operation, which seems to have some things to commend it, cannot be advocated,cannot be advocated because the Commission is convinced that Mr. Halverson cannot do it. One might speculate about that, one might speculate about that Mr. Halverson might save some more money in the country and still carry on but if he cannot, if he is down to the absolute minimum, why then it is arithmetically the result then and the country would suffer.

THE CHAIRMAN: He has told us what his operation is.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And he has put his costs before us,

MR. FRAWLEY: And Dr. Frey had no quarrel, no criticism, has not said anything critically about those costs. He has accepted them so I am hopeless

about them. I look at that Exhibit and I see a million and 25 thousand dollars, and a lot of things that are there shocked me but I have to put my shock in my pocket because Dr. Frey knows more about these things than I do and he has not pointed to anything, it just has to be carried on and watch their, closely watch from month to month this marketing system, and that would be my submission about that, that is all I can say about this direct refinery to pump operations, transactions.

MAJOR LIPSETT: Would it not come down to this, Mr. Frawley, if you take a certain amount off the price of gasoline in the larger cities, 4¢ or whatever it would be, would it not either, come down to this that you would have to put on this extra price in the country as has been pointed out or you would have to cut out a lot of these intervening jobbers, is that not the only alternative, if you say that there is too much expense between the refinery door and the final consumer, you have either to say that the intervening companies are making far too much money or alternatively that there are too many of them making some profit.

MR. FRAWLEY: On this submission, Mr. Commissioner, I am just putting in on the Imperial Oil Company, Mr. Halverson says "I have to have 5.18¢ added to the price to look after my Province-wide distribution" that is not worrying about the North Star or anybody else and apparently then Mr. Halverson would have to have it, that is as I understand it, the Chairman's point, Mr. Halverson has to have 5.18¢ and he cannot get along

with 5.1¢, and it breaks right down then.

MAJOR LIPSETT: He might get along if he was getting more gallonage.

MR. FRAWLEY: Oh yes, I say probably, yes.

MAJOR LIPSETT: That them of course gets you into closer to a monopoly and that would mean Governmental supervision.

MR. FRAWLEY: Yes, and there is nothing very much wrong with a well regulated monopoly. However, that is not what I am asked now. Well, Mr. Chairman----

THE CHAIRMAN: I have not heard you advoate that yet.

MR. FRAWLEY: I have not advocated that yet, no, because I do not think we are going to get to that. I will be saved making that argument.

Well I think we have got down to the bare bones of the posted tank car price and what it will do and will not do.

THE CHAIRMAN: We would like you to give some thought to it so that if it was a worth-while skeleton we could put some flesh on it.

MR. FRAWLEY: Yes, and not make it look too much like the Christmas turkey.

Now I advocate, as I say, the abolition of the 100% dealer contract as one more thing which will help to improve competition, which will help to bear down on the price leader's position, makirg him more responsive ultimately, all with the view of doing good to the consumer by a reduction in the tank car

price.

Now what is this 100% dealer contract? I say essentially it is a penalty, essentially it is a penalty.

Now why do I say so? We know from the Imperial Oil that in Calgary for instance the dealer business, you see the great part of the dealer business is in the cities, outside the cities the business is direct from the agency to the farmer, so when we are talking about the 100% dealer we are talking about the cities and the populous centres.

Now the Imperial has told us, and I am sorry I have not the record but perhaps Mr. Nolan has, that 95% of this gallonage in Calgary is on the 100% basis. Now when you get that much, 95% of one company's business in Calgary, and I take it Edmonton would be the same, and I take it it would be about the same, that with 95% of the gallonage is on the 15¢, on today's prices, it is rather idle to talk about a 16¢ price. That is not a price at all. There is nothing real about that 16¢ price to dealers in the City of Calgary when only 5% of the gallonage is going out at 16¢. Therefore, I say that the dealer price in Calgary today is 15¢. That the dealer price, the dealer price in Calgary is 15¢ and the dealer price in Edmonton today is 17.90¢, although you will find that the posted dealer price in Edmonton, the posted tank waggon price is 18.90¢ but I say that 17.90¢ is the

price you have to talk about and in Red Deer it is 16.60¢, not 17.60¢ which is the posted tank waggon price; in other words I say that in these places where there really are dealers the 100% price is the posted tank waggon price less 1¢.

Then what is the 1¢? It is just a penalty and that is all. In other words the Imperial Oil is saying to those dealers "Our price is 15¢", that is what it is saying to a prospective retailer "Our price is 15¢ and unless you will go exclusive with us you will be penalized 1¢", that is in essence what is going on.

Now Dr. Frey deals with this in Volume 131 and there is a lot more or less satisfactory, and in large part unsatisfactory, not on Dr. Frey's part, on my part so far as my putting the questions to him is concerned but this is discussed there, and so you can have the reference for your notes it is in Volume 131, pages 14,586 to 14,593. I think that that is all within those pages and I do not want to read them all at all. Dr. Frey discusses this question at page 14,593 and he enters into a discussion there as to what the dealer does.

THE CHAIRMAN: What would you say the general effect of his evidence was.

MR. HARVIE: He summarizes on page 14,591.

MR. FRAWLEY: Yes, he summarized and then we opened up the question again, yes, I have this marked at page 14,591. I can put some of this to you. Of

course he goes on and talks a lot about having learned his 17 Shell points and he would never have learned them if he was not a 100% Shell dealer, that is at page 14,589.

Then he says at page 14,590:

"Now then if the account is split the mer-
"chandiser is practically defeated at first
"base while if a man is a 100% dealer there
"is always a prospect, no matter how stub-
"born the filling station operator may be,
"that in course of time you will get some
"of your ideas across to him." You see.

"You see", is my own and not Dr. Frey's.

THE CHAIRMAN: The effect of his evidence is that he is not in favor of the 100% dealer.

MR. FRAWLEY: Oh I think so, and he says:

"But fundamentally, I think that it comes
"down to another thing and that is the best
"merchandising methods can be developed
"where there are exclusive dealing accounts
"and I should say it is entirely a matter
"of company policy and it is another one
"of those elements in competition as to
"whether a company would take a very large
"split account and give the same price as
"to a 100% account. I do not see that
"economically it is wrong because it clear-
"ly indicates that we are dealing with com-
"petition."

That of course is when we brought it to his attention that these companies or some of them, not the Imperial, not the British American, but some of the companies were giving a 100% price to some of the split accounts but my submission is the same submission that has run through all these, I want the 100% dealer contract abolished so that Mr. Mayland, Mr. Plotkins, Mr. Jones, Mr. Smith, anybody you like, can get in there and get some of the gallonage away, I do not say away from Mr. Halverson, let Mr. Halverson keep it if he can but it makes Mr. Halverson, to use my friend Mr. Nolan's expression, more sensitive, more sensitive, if the 100% dealer contract is not there and that is the advantage as I see it. The advantage on the other side of the contract is that it builds up nice stations, it builds up loyalty. Mr. Halverson told us I think, it is the same question so far as I am concerned, I am here urging strongly for a lower price to the consumer and I cannot get it until Mr. Halverson drops his tank waggon price and if the price I have to pay is for loyalty and all those things, then I know I have to keep on paying the price which I am now paying.

THE CHAIRMAN: You know it is quite an old thought, Mr. Frawley, that you cannot serve two masters well.

MR. FRAWLEY: Yes, that is an old thought, yes, but you could serve perhaps the public. All the supplying companies are thinking about is serving themselves and you cannot serve the British American as well if you have to serve the British American in

the morning and the Imperial in the afternoon but you can serve me and I would be more satisfied.

THE CHAIRMAN: If you make these people servants of the public, but at the moment you are asking that they be servants of two companies, are you not?

MR. FRAWLEY: That is true, but the public is paying the piper and they should have something to say about it.

THE CHAIRMAN: Perhaps so and that perhaps leads to the logical conclusion that the public should be running the service stations through the only agency that the public has of the individual functioning, perhaps that is the thought.

MR. FRAWLEY: I can assure you, Mr. Chairman, there is nothing that I am advancing here today that is not arguable and has not two sides to it but the side I am striving for and the side that I am concerned with,-let the others speak about their own side,-I am striving for a lower price to the consumer and it has been made abundantly clear to me, so abundantly clear that it has changed my whole philosophy about this industry, that we have to bear down on Mr. Halverson or we will get no relief. Now I cannot make it any plainer than that and I mean it seriously and honestly, we have to get Mr. Halverson more sensitive than he is and we want Mr. Halverson not to answer by way of a price concession because a price concession does not do the consumer generally any good. But I want this next step which Mr. Halverson tells us about, ultimately a price concession may become a tank waggon drop and until that happens the consumer does not get any benefit.

J. J. Frawley, K. C.

MR. FRAWLEY: Now, I certainly cannot pass without calling attention to what the British American Oil Company is doing.

THE CHAIRMAN: In view of what you have to say, supposing that the Government had nothing to do with the industry in the sense of being concerned with the producers, the refiners, but went into the distributing business. Can you do it any better and can you do it any more cheaply. If so, why not advocate it?

MR. FRAWLEY: I would not say we can do it any cheaper, I mean that the Government could do it any cheaper, or the people themselves. No, I think Mr. Halverson is a very good marketer, but he has just got to be - it may not be a very happy expression - but I shall never make a more serious statement to the Commission than this, that Mr. Halverson, the price leader, has to be made more alive to the necessity of reducing the tank waggon price, and the things I am suggesting, in my poor way, are the things I think will assist. Break down this 100% dealer and let Mr. Mayland go into the town of Lacombe and get some of that gallonage if he can. He cannot get it now because of the loyalty of the Imperial dealers. But once Mr. Mayland and all the other newcomers, the new Mr. Maylands who are striving for gallonage, and they are the ones who are going to break down the tank waggon price. Mr. Halverson tells us, and Dr. Frey tells us so. Dr. Frey is optimistic about it. He says he sees downward trends and that is how he sees it, Mr. Mayland exerting force in the market and Mr. Halverson responding to it with the break in the tank waggon. And that is what I want to see, as soon as possible. I want to

shorten off this long swing as much as I can. If we do not do anything, if we say "Well, we may have a deeper interest in the dealer, the service man and so on." But that brings me to the Texas gasoline company, coming into this Province with admittedly good gasoline. But that does not do me a bit of good. That is not good enough for me, to get a little better gasoline in my car. The thing that is good for me and all the consuming public in Alberta is the lower tank waggon price. Mr. Meltabarger of the Texas Company did not choose to lower the price. They just gave a little better quality of gasoline. Well, from the records it shows a higher octane rating. Let us say that. But that is not good enough for the consumer in this Province, a better quality gasoline. The only thing Mr. Meltabarger is doing in this Province, if he is doing anything, is by heavy advertising taking away gallonage from the price leader and ultimately he will make himself felt. All I want to do is to shorten up and bring about that ultimate situation. That is all. I am not content to leave it entirely, because I know what Mr. Halverson will do. I have some very interesting figures to show you when we come to that as to how long we had to wait until Mr. Plotkins and the other third grade marketers bore in sufficiently on Mr. Halverson to warrant and obtain a reduction in the tank waggon price. Mr. Cottle has gone to the trouble of working out some percentages and figures and they are very interesting, and it is a question of how long we will have to wait for similar results on "Q" gasoline.

MR. COMMISSIONER LIPSETT: I suppose you narrow your proposition a little more than you are stating it. Your object is not to force Mr. Halverson to lower the tank waggon

price to the extent that he runs at a loss?

MR. FRAWLEY: Oh, no.

MR. COMMISSIONER LIPSETT: And in such a manner as to destroy both industries that are existing in the Province, or the inducement to establish similar industries, or enlarge those industries in the Province. I suppose what you are really suggesting is that competition might make it possible for him to reduce the cost of some of the intervening operations. To cut them down somewhat if it is possible. But do not go so far as to say it should be done if it turns out to be impossible.

MR. FRAWLEY: No, I do not say there is no irreducible minimum. I say that the price of crude, being at a certain given price-----

MR. COMMISSIONER LIPSETT: I am on the marketing question only, from the refinery door.

MR. FRAWLEY: Yes, but I mean to say there is a limit to the spread. There is a limit to what shrinkage we can expect in Mr. Halverson's spread, of course.

MR. COMMISSIONER LIPSETT: There is a limit also to what the cost of doing the marketing is.

MR. FRAWLEY: Yes, there is a limit to what that 5.18 can be brought down to, sure.

MR. COMMISSIONER LIPSETT: Have you any suggestion as to that at all?

MR. FRAWLEY: As to the amount?

MR. COMMISSIONER LIPSETT: Yes.

MR. FRAWLEY: No. I have to go in the other direction and say "Leave it to Mr. Halverson but see that everything is done to make him aware and to cause him a

greater awareness. Not only that but actually to see that these things, that this protection that he now has, and that is, perhaps, a frank way of putting it, but I may as well put it that way, the protection Mr. Halverson now has in the 100% contract, that that be done away with.

THE CHAIRMAN: Mr. Frawley, are you consistent when you say eliminate the competitive retail dealers. The 100% dealer is out to make the other man sensitive because he knows how, by getting his business from him. The dealer you are proposing to put up in the towns and villages does not care a tuppence whose gasoline he sells. There is no competition there. Or he is being dishonest to one employer or another, as the case may be. Theoretically, that has eliminated competition in the pumps in that town.

MR. FRAWLEY: I say, Mr. Chairman, we have a beautiful example in the Province of Alberta of there being no competition. Look at the City of Red Deer. With a 5.9 spread. You cannot get that except you have an iron-clad agreement, which there must be up there. Now, quite frankly, I do not look for any relief to the consumer----

THE CHAIRMAN: On the other hand, we have had all kinds of evidence as to unethical and improper practices indulged in by local dealers to get away business from the other fellow.

MR. FRAWLEY: I am coming to that.

THE CHAIRMAN: They do not only deny that there is not any competition but they say there is competition up to a point where they are doing that which should be, perhaps, prevented.

MR. FRAWLEY: And I am coming to the under-canopy situation. It is, perhaps, the most difficult part of

what I have to discuss because one wonders what to do. To prohibit it or let it go on. One really wonders, having in mind my underlying proposition, relief to the consumer. But under the canopy there can be no relief to the consumer. There is always this so-called "sucker trade" with the posted price left there. That is all I want to get down. And then there is intermediate chiselling going on. There is the No. 2 price and the No. 3 and the No. 4 price, and then the No. 1 price that you and I pay when we go to a service station. Thanks to Mr. Harvie's client for telling us all about it, added to by Dr. Frey and so on. When I come to that, that is troublesome, but at the moment I say that the real relief will come to the people of Alberta in Mr. Halverson's tank waggon price. When that comes down then we can shrely see to it - if we have found one thing that has emerged from this evidence it is that once you grant a spread, if it is 15 cents or 16 cents, the price, when you make up your mind that 4½ cents is the fair spread, then when they drop the tank waggon price we can see that it is passed on. I am not fearful of that. We know the tank waggon drop and we will have no more of this hesitation, because that is only done through out and out collusion, and if it is necessary to prosecute under the Combines Act, there should be some relief can be obtained from that sort of thing. It is very clear in the question I urged this morning and you yourself put to Mr. Halverson, Mr. Chairman, that there must be a passing on of that tank waggon cut. The only way in which it is not passed on is by out and out collusion.

MR. COMMISSIONER LIPSETT: Supposing you eliminated this 100% dealer contract, what effect would that have on enabling

more Montana gas to be brought in here and sold in this Province to the detriment of the Turner Valley producers. At present the larger companies now existing in the Province have pretty well, I would say, 95% undivided dealers and in that way they have corralled a great deal of the retail outlets for Alberta-made gasoline.

MR. FRAWLEY: Yes. Well, it may be that Montana gasoline if----well, it lets down the barriers for everybody, of course, whether they be an Alberta refiner or a Montana refiner, as long as the situation at the border continues, and I will have something to say about that.

MR. COMMISSIONER LIPSETT: You deal with that as a separate problem later on?

MR. FRAWLEY: Yes, I am going to deal with the Montana competition separately.

MR. COMMISSIONER LIPSETT: As you say, it might open greater competition for a refinery such as the Gas & Oil Products, which equally is a straight Alberta producer of crude oil-----

MR. FRAWLEY: It is a very troublesome question. The point is reached when there is, perhaps, a divergence of interest. You see, the consumer can carry the Alberta oil industry only up to a point. I think we have got to be very careful about our conclusions in that respect. I say that with the very greatest respect. I say that the open door in Montana is not wholly evil. However, I will come back to that a little later on.

Now, Mr. Harvie said something about the 100% dealer, and I think it is worth while, I think

very much worth while, to see what he said. Mr. Harvie in reviewing the evidence given by his company - I take it from Mr. Harvie's statement because it is handy, at Volume 147, at page 16,370. Mr. Harvie says this:

" Mr. Miller then deals with the "1¢ discount to 100% dealers and says:- (V. 100, P.11,300)

"'A. Speaking personally for our company I would have no " objection to the authorised buyer's agreement being " discontinued and the dealer being sold at tank " wagon market and we will sell our merchandise on its " merits,we will take our chances with anybody else as " to being able to create that consumer demand for our " products to take care of the sales we wish to make.'"

Now, I do not want to be unfair to Mr. Harvie, if his clients meant that they will sell at the posted tank waggon market - Mr. Miller says at the tank waggon market we will be glad to sell. If he emeans the posted tank waggon market, of course, he cannot.

MR. HARVIE: He does mean that. That is what he says.

MR. FRAWLEY: He means to sell at the posted tank waggon market?

MR. HARVIE: You had better read the whole thing to see what we do say! It is Volume 100.

MR. FRAWLEY:

" Speaking personally for our company----"

I am reading from Mr. Miller's original statement, Volume 100. I was reading from Mr. Harvie's statement in Volume 147 but this is Mr. Miller at Volume 100 on page 11,300. Major Lipsett put the question to him about that.

MR. HARVIE: It was the Chairman's question and reply that is helpful.

MR. FRAWLEY:

"Q MAJOR LIPSETT: Well now just following that, where would
" that bring us, Mr. Miller, what was passing through my mind,
" and I want to get your help on it, you have arrived at the stage
" where you now have only wholesalers and retail outlets we will
" assume and assuming no more should be granted, does not that
" involve that those existing channels should be allowed to handle
" the existing business also, in other words, should not the
" existing wholesale and retail outlets be allowed to handle the
" products of these other refineries that Mr. Frawley has men-
" tioned in addition to the products of the two or three major
" companies?
"A Speaking for, speaking personally for our company I would have
" no objection to the authorized buyer's agreement being dis-
" continued and the dealer being sold at tank waggon market and
" we will sell our merchandise on its merits, we will take our
" chances with anybody else as to being able to create that
" consumer demand for our products to take care of the sales
" we wish to make.
"Q That would eliminate the undivided dealer?
"A Yes.
"Q THE CHAIRMAN: Of course assuming that the
" statutory clause or condition in all the contracts was eliminated
" and that your competitors are all on the same basis, I suppose?
"A That is right.
"Q That they cannot prevent anyone by contract from selling anyone
" else's goods, I suppose you have some such thought as that in mind
" MAJOR LIPSETT: I did not have any views on it,
" Mr. Miller, but I was very anxious to get yours because the
" difficulty that we might all have to face or should face may
" be one connected with that?
"A I think that would be quite satisfactory, Mr. Commissioner, and
" particularly if the licensing regulation is enforced or if
" good judgment is used in the future issuing of licenses."

THE CHAIRMAN: All I was putting to him was that I supposed his willingness to have the 100% dealer eliminated was associated with that being true of all his other competitors, whether required by Statute or otherwise.

MR. FRAWLEY: It would not matter then. My point is the same whether in Red Deer it is sold at 16.60 or 17.70 it would have no effect on the retailer spread, and when I am talking about putting all the people, the existing people and the new people all on the same footing. No handicap, that is all. I just simply say: "Raise the handicap", and that is my whole point.

MR. HARVIE: But you raise it by going back to the tank waggon and not reducing it the 1 cent off the tank waggon.

MR. FRAWLEY: If I understand the situation aright, I do not care at all. I say put them all back on scratch and let them all have a fair race for the gallonage. I do not suppose it matters whether it is 16.60 in Red Deer or 17.60. It simply means that Mr. Mayland goes into Red Deer, or anyone else striving for gallonage, and he is not confronted with a 100% B. A. contract on the one side of the street and a 100% Imperial on the other side of the street.

THE CHAIRMAN: Why does it not matter whether it is 16. something or 17. something. Is it not going to cost the consumer more?

MR. FRAWLEY: I was looking at it from the standpoint of the effect on the wholesale price. Mr. Halverson has a certain gallonage and a certain area. Mr. Mayland goes in and whether it is being sold at X cents or X.1 cents, is it not just the same as far as my point is concerned. There is no barrier. There is no bar. You see,

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as it is now, the new oil company goes in and he just cannot take the business. He is sent on his way. He says "I am not talking to you until next April or May when my contract falls in." And that is what I want eliminated.

MR. COMMISSIONER LIPSETT: I did not understand Mr. Miller's intention to be in that evidence that you have read that he would cut the price of his commodity 1 cent. Was that what you mean?

MR. HARVIE: He said he would sell at tank waggon. Tank waggon is the posted tank waggon price, and the 1 cent off the tank waggon is the undivided dealer price.

MR. COMMISSIONER LIPSETT: You thought he meant he would put the price up?

MR. HARVIE: Well, he said he would sell it at tank waggon and that was not 1 cent off the tank waggon.

MR. COMMISSIONER LIPSETT: I took it at the time that he would eliminate the discount to everybody.

MR. HARVIE: I took it, Mr. Commissioner, it is a more expensive account if it is not a 100% dealer, and that is why the 1 cent is not taken off.

MR. NOLAN: That is what Mr. Miller says. I have a note of his evidence at Volume 99 on page 11,164. He is asked there to express his views on the soundness of the principle of undivided dealers and the effect of his evidence is, what Mr. Harvie has said and he says:

" With undivided dealers we have some control or at
" least we are able to tell whether he does remain
" undivided because he is retailing his product to the
" consumer. In contracting with the consumer for his
" undivided requirements we could not make any check and

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" I do not think that the average contract that might
" be made would be lived up to. In other words, they do
" not look at it from the angle of any importance.
" We think though that the undivided dealer should enjoy
" a better price than the divided dealer. In the
" first place, there is more economy on our part with a
" dealer who is undivided and there is more economy on
" his part."

And then he goes on to say that you have to make smaller deliveries, 50 gallons as compared with 200 or 300. That is page 11,164 of Volume 99. Now, while I am on my feet may I refer the Commission to what Dr. Frey said in Volume 129 at page 14,382. The only interesting part of it is that he is discussing the fact there are no split accounts in the United States. He goes into detail there about the areas in which there are no split accounts and sums it all up by saying:

" The general pattern for distribution in the United
" States is on a 100% basis with the supplier."

That fits in with the rest of your references.

MR. FRAWLEY: Well, my point is a very simple one. I am anxious to get the barriers down for the people seeking to get gallonage, because it is only through the operations of those people, seeking to get gallonage, that the price leader will ultimately reduce his tank waggon. Now, the next thing which I classify in the same way are the Ethyl Company's discriminations. I think there are some discriminations there which do act as a barrier, as a barrier to the free play of competition. And that is the only part of the Ethyl Company's - I have reduced my views about the importance of the Ethyl Company in this Province to those

things. We must have Ethyl fluid. Incidentally, it is unfortunate that the Ethyl Corporation has withdrawn from Canada entirely. It has withdrawn its operations. Of course, the fluid will come over from wherever it comes from, the Atlantic Sea-board. But the company has discontinued all its offices in Canada, due, perhaps, to the war. But it is the licensing policy of the company that I am interested in. Now, I say that it is a barrier to the free play of the competitive forces that the corporation should refuse its Ethyl label to some jobbers and grant it to others. I think there can be nothing more patent than that. There is not any doubt about it that with all the millions of dollars the Ethyl Corporation are spending on advertisements of its label that that label must have some value and when Mr. George MacKenzie, operating the Great West Distributors, is not permitted to use his brand, his own patented name, "Red Head" in conjunction with the sale of his Ethyl gasoline, that is a barrier to the complete success of Mr. MacKenzie's Ethyl business. It seems to me that it must be so. It seems to me that Mr. MacKenzie should be allowed to sell Red Head Ethyl gasoline. Dr. Frey thinks that he should be able to and I think I will just give you the reference, because that evidence is probably fresh in your minds. Dr. Frey deals with that in Volume 130 at pages 14,513 and, together with Mr. MacKenzie's cross-examination it goes through to page 14,528. Now, it is true, of course, and Mr. MacKenzie in his brief suggests that Dr. Frey's view with respect to the extension of this privilege to the ordinary jobber, that that is based upon the mistaken notion that jobbers here blend. Now, it may be that Dr. Frey did

have the idea, just temporarily, because I do not think he so misunderstood the operation of the jobber here, because he is mindful of the fact that jobbers here buy their gasoline fully blended and finished, their Ethyl gasoline from the refinery. So I am quite certain, therefore, it was a temporary lapse from his thoughts. But it seems to me that it makes Dr. Frey's point all the clearer when there is not this danger. Dr. Frey was putting it on the ground that the Ethyl Corporation had to trust to the jobber to see that he blended right and it was being put to Dr. Frey, at least Dr. Frey was suggesting it himself really without any prompting at all, that even though the jobber did his own blending here that that was not any reason why he should not still have his Ethyl name. But when we know that jobbers do not blend at all, that there is a pure and straight discrimination, unqualified discrimination by the Ethyl company in permitting the Maple Leaf Petroleum Limited to sell Maple Leaf Ethyl and refusing the MacKenzie company, which is absolutely in pari delicto with the Maple Leaf Company, why it is just impossible to understand. To be very frank with the company, to be very frank and fair to Mr. Kaley, he just does not justify it at all. He simply says "We do not discontinue these things as long as the company maintains its corporate existence."

THE CHAIRMAN: Do you see nothing in the fact that Mr. MacKenzie and his Red Head gasoline , is it not right to say that that might come out of the Mayland refinery one day and the Imperial the next and the B. A. the next?

MR. FRAWLEY: That is right, and the Ethyl Corporation has its check right on the Mayland refinery and the B. A. refinery and the Imperial refinery.

THE CHAIRMAN: What is to prevent Mr. MacKenzie

from blending all three if he wanted to?

MR. FRAWLEY: Nothing. I say be consistent. There is nothing to stop the Maple Leaf Petroleum Company from blending. It is a separate entity. The Maple Leaf Company could-----

THE CHAIRMAN: Yes, of course, but the Maple Leaf is not a very happy example because we have every reason to think it would not be using anything but Imperial.

MR. FRAWLEY: That is true, and that is a very good reason.

THE CHAIRMAN: But I am talking about the pure jobber.

MR. FRAWLEY: What is to stop anyone once you leave the refinery. Take any jobber at all, The Canadian Oil Company can blend all they like. Take the Canadian Oil Company. The check on them is at the Imperial refinery in East Calgary. The Ethyl Company knows that that gasoline, wherever it goes, whether it goes into Mr. Halverson's marketing system or to one of the many jobbers, that it is genuine Ethyl gasoline. Now, it is perfectly true that the Canadian Oil Companies, after they get it to their Vulcan bulk plant, can blend it and dilute it and deteriorate it and all other kinds of things. So could any other jobber. The Ethyl Corporation are taking a considerable burden there and they do not attempt to justify what they have done at all except by saying, in the light of Mr. MacKenzie's cross-examination, and Mr. MacKenzie's brief, it would make too many jobbers having the privilege, too many people rather with the privilege of using the Ethyl label. Dr. Frey rejects that and he is a person I suppose who should know. He said it does not make the slightest difference whether you have

15,000 Ethyl gasoline jobbers or 1,000 or whatever the number he said.

MR. COMMISSIONER LIPSETT: There is no greater reason with the MacKenzie Company than there is with any other jobber?

MR. FRAWLEY: That 's exactly it.Now, the company knows there is precisely the same risk of blending, if that is the danger.

THE CHAIRMAN: That is not exactly their position. Their position is we are treating MacKenzie like any other jobber. It is our practice and our preference to deal with the refiner. If there are refiners in other places in Canada,all right,we do not care whether they are jobbers some place else or not. They get the business because they are refiners and we do not just enlarge our activities to include jobbers. Why should we do more?

MR. FRAWLEY: No reason in the world except for the suggestion I am now making, that it is just a barrier to competition. We do not want any interference of any kind at all with the full and free play of competition. That is all I take out of this whole Ethyl evidence. Frankly, this idea I did not have at all when I entered this Inquiry. I now say "Let us put no bar in the way of Mr. MacKenzie being able to effectively assert himself in this market." Why? Because the more effectively he asserts himself the more sensitive Mr. Nolan's client becomes and Mr. Nolan's client is the only person who has anything to say about the tank waggon price in the Alberta refineries. Now, I call attention to another discrimination on the part of the Ethyl Corporation and I point to the outstanding case of the Texas Company. It has a licence to export gasoline, "Q" gasoline

and Ethyl gasoline, in other words, leaded gasolines from the United States into Canada, and all other such exports are prohibited.

MR. MacKENZIE: Oh no.

MR. FRAWLEY: As far as the Province of Alberta is concerned. Now, Mr. MacKenzie suggests down in Ontario probably there is a different situation. But our Inquiry is confined - once or twice we thought it would have been nice to have included the Province of Ontario.

MR. NOLAN: The all-Canada picture.

MR. FRAWLEY: And Nova Scotia, to get the all-Canada No. 9. But we are limited to the Province of Alberta. So we look to Manitoba and we find Mr. MacKenzie's clients have chosen-----

THE CHAIRMAN: You look to Alberta?

MR. FRAWLEY: Look to Alberta and Montana in this instance. Ontario and New York State is something else. But as far as Alberta is concerned Montana is the only American exporting point for practical purposes, so far as we are concerned. We find that the Texas Company enjoys the privilege which is denied to other exporters. Now, Mr. MacKenzie went to some pains in his brief to point out in a rather, well with a certain amount of justifiable sarcasm, perhaps, that Mr. McNeill, his fellow countryman, went down to Montana to get some gasoline and he could not get it. It is quite true that Mr. McNeill could not buy his gasoline from the Home Oil Company in Great Falls, Montana, because that company did not have the privilege which the Texas Company had, the Texas Company at Sunburst, Montana, of exporting. But to complete the picture, Mr. McNeill could

have gone in at Sunburst, Montana, and picked up his supplies, always provided, of course, he had first made a certain arrangement in the City of Calgary with the Texas Company of Canada Limited. Now, that is just discrimination. Mr. Plotkins takes his truck down to Sunburst, Montana, and fills it up with leaded gasoline and drives into town. He has the privilege to do that, having made financial arrangements with the Texas Company of Canada Limited. But Mr. Plotkins could not take that truck 10 miles further into any one of the other companies with Ethyl contracts, refiners with Ethyl contracts, in the State of Montana. He is restricted entirely to the Texas Company. Well, I say that that is a privilege. Whenever you find privilege and special arrangements made which are not general, which are not extended to others, I say that is a bar to free competition and it must ultimately have its effect on repressing the full play of the competitive forces in this Province. It is of more importance, of course, because, as Mr. MacKenzie admits, his client has a monopoly, a monopoly upon the sale in this Province of everything but third grade gasoline.

(Page 17,577 follows.)

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I am sure the Commission are mindful of it but I want to impress on the Commission that Mr. MacKenzie's clients have a patent on gasoline, not only on the fluid but on the gasoline and so one can say quite definitely and positively, that Mr. MacKenzie's clients have a monopoly on the sale of all the motor fuel in this Province except 3rd Grade gasoline and distillates because we know that there is not any other gasoline, except a negligible quantity which comes into the south country, that is not leaded; 99%, I suppose, of all the leaded gasoline or of all gasoline, all the regular grade gasoline let us say, 70 octane and then the higher premium fuels, are all bought, are all manufactured through the instrumentality of the contract which the refiners obtain from Mr. MacKenzie's client. Therefore, Mr. MacKenzie's clients have a monopoly on the sale of gasoline itself in this province and that being so there is more reason, more than ordinary reason for the Commission to see to it that every little obstacle, if there are obstacles in the sale of that product, to see that any that are more than reasonable and proper should be eliminated. That is all I have to say about the Ethyl Corporation.

MAJOR LIPSETT: That means, Mr. Frawley, you do not suggest that the Ethyl Corporation should adhere strictly to their current policy of not allowing their products or their leaded products to be imported from outside areas, you do not suggest they should enforce strictly the rule of not allowing their leaded products to come into Canada from Montana say but rather that they should enable all the Montana products with Ethyl as an ingredient to come into Canada on an equal basis.

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MR. FRAWLEY: Oh, sure, oh absolutely, as long as the Texas Company of Canada Limited is privileged to import, as long as they are able to satisfy the Dominion Department of Customs that there is nothing wrong with their importations, then I say that that privilege should be extended to all persons desirous of importing from Montana from any refinery.

MR. HARVIE: Have the others ever requested it?

MR. FRAWLEY: I am talking again about the recommendation of the Commission, that it should be available; availability is what I am talking about, the breaking down of the existing barriers and if anybody comes up to the gate to get through the barrier, all right.

MAJOR LIPSETT: But you do not suggest a recommendation that the Ethyl Corporation should maintain their ordinary rule and not allow any leaded products to come into this Province from Montana?

MR. FRAWLEY: No, I say let the Ethyl Corporation permit anyone in Montana that wants to export leaded products into this Province, do so. Do I make myself clear?

MAJOR LIPSETT: Yes.

THE CHAIRMAN: I do not know.

MR. FRAWLEY: Perhaps I do not.

MAJOR LIPSETT: Regardless of the effect on the Turner Valley producer?

MR. FRAWLEY: That is something else and I am not discussing that at the moment at all. I say that the Texas Company brings in large quantities of leaded gasoline ---

MAJOR LIPSETT: Yes.

MR. FRAWLEY: All right, why should the Texas Company be the only persons privileged to bring in leaded

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gasoline from Montana. If it is going to come in at all then why not have freedom of competition.

MAJOR LIPSETT: Everybody.

MR. FRAWLEY: In that Montana gasoline.

MAJOR LIPSETT: You are really not expressing any opinion upon the propriety of shutting it all off.

MR. FRAWLEY: No, I am stopping there because very simply what is the use of shutting it all off when the Texas Company is allowed to bring it in. That is all.

Now that is all I have to say about the Texas Company. I say those are bars to the free play of competition and what the suggestion of the Texas Company is, I mean the suggestion of the Ethyl Corporation rather, that after all the Texas Company of Canada was a Canadian Company and they had more control and so on. It seems to me that that put up something rather unreal because all that means is that the Big West, - well the Big West is not using an Ethyl contract but the Home Oil Company in Great Falls or the Socony Vacuum Company of Cutbank or wherever they are obtaining it, - could simply come across into Coutts, incorporate an Alberta Company and just go through the motions of making a Canadian importation and then presumably the Ethyl Corporation would then permit them to export to their Alberta subsidiaries. It seems to me that, facing the realities of the situation, there is an unwarranted discrimination in favor of the Ethyl Corporation in Sunburst and against all other Montana refineries which is ----

MR. COTTLE: You mean the Texas Corporation.

MR. FRAWLEY: The Texas Corporation at Sunburst

and against the other refineries in Northern Montana.

Now the next thing I want to discuss is the posting of wholesale prices ---

MAJOR LIPSETT: Now so far as the Ethyl Corporation is concerned, you just make the two points, discrimination as between two sets of jobbers ---

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And secondly, discrimination in favor of the Texas Company of Canada as against other refineries in Montana?

MR. FRAWLEY: That is right, those are the two points.

Now it seems to me that some good might come from posting wholesale prices. Now this is one of the items, Mr. Chairman, where it is questionable whether it fits in here in what I am now discussing or perhaps fits in better in a further memorandum which I have dealing with what I call "Collateral Marketing Matters" but I might as well discuss it now and be finished with it.

It was suggested in evidence by Dr. Frey that it might be well to post service station prices. In fact I think he was quite of that opinion, that he thought that it would do some good, to post service station prices. Now if that is so then it might be well to post warehouse prices, wholesale prices in the country. Of course ----

THE CHAIRMAN: He qualified that a lot, Mr. Frawley, you remember he spoke first of price, if you are going to have a posted price you must have it for a period of time.

MR. FRAWLEY: Oh, yes.

THE CHAIRMAN: Otherwise they would keep posting it as fast as they wanted to make a contract.

MR. FRAWLEY: Yes, whatever he said about the desirability, about the wisdom of posting prices at the service station, I merely suggest there seems to be no reason why prices should not also be posted at the warehouse. Now you may say, "Well, they are". Well Mr. Stevens, the Imperial Oil and the other companies too, issue from time to time price lists showing the posted tank wagon prices at each point so that to all intents and purposes there are postings but what I suggest, and I say now it actually takes me out of this discussion into another point altogether and I may as well dispose of it now, I suggest that there be two price postings at the wholesale points, that the postings should show these things, the laid-in cost of the wholesaler. Now I take that from Dr. Frey. He says that the service station should issue a posting, and should show the laid-in cost to the service station and then it should show the selling price, then it should show the taxes, that is what Dr. Frey suggested at the service station, there should be a triple posting at the service station, three prices, in other words the laid-in cost and if he is a 100% dealer, that shows, and then the next price is the selling price exclusive of tax and then the third price is the total price including tax, and so it is simple to show the tax and then your selling price and the price you pay. The selling price is the addition of the two.

THE CHAIRMAN: The first is the laid-in cost.

MR. FRAWLEY: The laid-in service station cost, yes, 15 cents in Calgary, the posting in Calgary, Mr. Chairman,

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would be the 15 cents.

MAJOR LIPSETT: 15 or 16.

MR. FRAWLEY: Yes, whichever it would be, that is true, 15 or 16 cents. Then add 4½ cents to that, 19½ cents; then add 7 to that and the total price is 26½ cents; now that is what would be posted on the pump in Calgary; 15, 4.5, 19½, 7 cents for tax, 26½ cents. Now just how much should actually go on the ticket is a question but Dr. Frey's point was he wanted the retailer to show his laid-in cost, so then the consumer could judge for himself.

I was going to say something about that a little later when I am talking about the retail margin but I am taking that suggestion of Dr. Frey's now for the retail service station and I am taking it out into the country point. Now I say that the postings should show the laid-in cost of the wholesaler, take for instance, take Edmonton for instance, that would be 12.72 cents, that is the laid-in cost of the wholesaler, then there should be the wholesaler's posted price delivered to farmers which would be 18.9 cents; that is his present posted price delivered to farmers.

Then it would show thirdly the wholesaler's posted price to the farmer f.o.b. the warehouse which would be 17.9 cents.

Then it would show the wholesaler's tank wagon price delivered to dealers 17.9 cents and the gasoline tax to each class of purchaser.

Now that involves, of course, another subject and that is that there should be available to farmers a cent off, to those who desire to come and get their products, a cent off and I am comforted by the British

American Company's evidence in that regard and what Mr. Harvie says at Volume "147", page 16,370. Mr. Harvie says, quoting again from Mr. Miller, quoting from Volume "99", Page 11,145, and you find it in Mr. Harvie's summing up in Volume "147", Page 16,370.

THE CHAIRMAN: Where is Miller?

MR. FRAWLEY: Miller is Volume "99", Page 11,143 and I will read from Mr. Miller, which is more satisfactory.

"Mr. Miller was asked to file"

This is probably Mr. Harvie's examination:

" Mr. Miller was asked to file on behalf of the
" Company a considered view as to the policy of
" selling to farmers at an f.o.b. warehouse price?
"A Our view is that it would be more satisfactory to
" have one price f.o.b. warehouse for farm deliveries,
" providing the authority or government agency would
" enforce compulsory elimination of free delivery;
" in the event of this not being possible, two prices,
" one for delivery and the other f.o.b. our warehouse
" may be advisable and it is our intention to establish
" same in the future notwithstanding the probability
" of increased costs on individual deliveries; in
" other words, I am afraid that, while deliveries are
" getting smaller to the farmer each year, that is the
" capacity, the total gallonage delivered to each
" individual farmer is getting smaller, there is
" more by f.o.b. the warehouse; in other words, a
" larger percentage f.o.b. the warehouse and the other
" balance wanting delivery in certain seasons of the
" year, means possibly added costs on those delivery

" charges either to ourselves or to our agents
" inasmuch as they have to maintain equipment and
" suffer depreciation on equipment whether it is
" used or not.

That is all that Mr. Miller said on that and he went on to something else, that is his complete statement there on that day at any event. I simply call attention to that and I suggest that there need be no alarm if British American Oil Company with the large gallonage which it has, is ready and willing now to encourage this system of giving the farmer the privilege of coming for his goods and getting a cent off and then if he does not want, if he wants delivery, pay the cent more; that that is something that cannot be ignored, something in my respectful submission which the Commission should give consideration to.

THE CHAIRMAN: Is that sound?

MR. FRAWLEY: Oh, well, there is another side to this too, of course. Mr. Halverson says, "You will not be able to do it" and Dr. Frey says it too. Dr. Frey points out you might have in the busy seasons of the year a break-down. You will find that the agent cannot do this at all, the agent needs that business. Oh, I do not want to leave the Commission with any impression, - in fact I have some notes on that when I come to dealing with it separately. I was only dealing with it here on the advisability of posting, - I should have put these two items together, - the posting of the bulk prices and the free delivery problem itself and I have something to call your attention to there ---

MAJOR LIPSETT: Mr. Halverson, I think, said it had been tried out in Saskatchewan, Mr. Frawley.

MR. FRAWLEY: Oh, yes, oh, sure, it just may be that one class must pay for the other class. I may be a farmer with a pretty well established routine in his business ----

THE CHAIRMAN: They say it just disrupts the whole thing. The man who cannot afford a truck, he is just serving people who are away off, those who are close in come in and get the advantage of the cent.

MR. FRAWLEY: That is right. It is just one more thing intervening, interposed, one more difficulty, one more obstacle. Now if that is the economics of Alberta, the agricultural economics of Alberta which makes it so, all right, we will tell the people and then they will know but it is pretty bad, I say it is pretty bad, it is bad for the farmer who is operating his business and who is not sitting down and who has the facilities for operating his farm, but then there is the poor marginal farmer who has no truck, has nothing but a team of horses ----

MR. HARVIE: Then he will not need gasoline.

MR. FRAWLEY: Even if he has only a team of horses he may have a tractor.

MR. HARVIE: It is a hayrack he wants.

MR. FRAWLEY: He may have a tractor though, I have recovered myself nicely there.

MAJOR LIPSETT: You mean he has only a team of horses to go and get the gasoline.

MR. FRAWLEY: Yes, indeed, but he may have a little Fordson tractor on his farm and he just sits there and he has no other way of getting it except at the expense of the Imperial Oil Company. I say at the expense, he pays a cent it is true, but he may be away off over bad roads to

get to him, well that may be our economics, that may be our economics, the man who is five miles from town and who has a truck with which to come and get it, to come and get his goods, he has to keep paying the same price then although he goes to the warehouse and gets it as Mr. Farmer, as Mr. Marginal Farmer away out on the outskirts of the delivery area, 15 miles.

Now before I leave this subject though, do not let me forget to call the attention of the Commission to the fact that we have evidence here that what I am suggesting be done is being done, is being done now and every day and all that the supplying companies say about it is, "Well we don't know anything about it officially. If it is being done the agent is doing it and he is operating it out of his spread." We are told that farmers do come in and get their goods at the warehouse and they simply put it up to the agent, "Now why should I pay you this full posted tank wagon price when I am delivering, when I am taking it away myself", because you see then you get to the ridiculous situation which I think I put to one of the witnesses, that a farmer on his way home with an empty truck can say to the Imperial Oil agent, "Bring me out a couple of barrels of gasoline tomorrow." and go on his way home, which is an absurdity, that is just a wasteful, senseless operation but they can do that and I say they would do that and then the agent comes to terms, and says, "Put it on that empty truck of yours and I will give you a cent off", that is what is happening.

THE CHAIRMAN: You have heard what the representatives of the farmers have had to say about this abolition of this delivery?

MR. FRAWLEY: Oh, yes, Mr. Average Farmer has

to be looked after. They say, "Carry on as we are". Well that is fine, that is fine, we just carry on as we are and we do not do much about the price of gasoline.

MR. NOLAN: Yes, we do, we have changed it twice since this Commission started.

MR. FRAWLEY: Yes, that is something, just keep the Commission sitting, but that is a rather expensive undertaking.

MR. NOLAN: The economic forces are still working.

MR. FRAWLEY: They only work while the Commission works.

MR. HARVIE: They did pretty well, four changes before then.

MAJOR LIPSETT: Is that one of the cases where competition might do all you have in view. The question of these secret rebates, I do not say that in an offensive way, given by the agents, to the farmer who takes his delivery and in the second place you have the British American picture of what they are doing to bring the gasoline closer, the wholesaler closer to the farmer.

MR. FRAWLEY: Yes, I will have something to say about price concessions. Price concessions are one thing. Individual arrangements are one thing. Tank wagon reductions over the whole area are another thing and then in what way does the consumer out there benefit and that is my point, you can have a whole series of price concessions and that does not do any good to the general consumer and that is why I say these figures that I want to give you of how long it took to reflect that change, to show you how long the swing

was. I did not think it would be anything but an expression until Mr. Cottle worked it out for me but now I think it is interesting to put these figures before you and I will do that later.

But the last thing I have to discuss of these things which have to be encouraged because of the effect they may be expected to have on the price leader is the encouragement of co-operative marketing agencies.

MAJOR LIPSETT: You have done the fifth point when you were doing the first one.

MR. FRAWLEY: Yes, Mr. Commissioner, that is true.

Now a co-operative marketing agency provides healthy competition for the price leader. The profits of the co-operative operation are distributed as dividends upon a patronage basis and therefore, in the net result, insofar as the price leader is concerned, essentially works out as a prices concession to the consumer. It, therefore, must be dealt with by the price leader in the same manner as any other ----

THE CHAIRMAN: To a class of consumers.

MR. FRAWLEY: Well yes, to the farmer.

THE CHAIRMAN: That belongs to that co-operative.

MR. FRAWLEY: Yes, and it may be a city co-oper operative too but that is the point, it is a price concession. It therefore must be dealt with by the price leader in the same manner as any other price concession by a marketing competitor, that is, by price concessions which, when they become sufficiently widespread, result in a general tank wagon reduction. A price concession is only given to classes in the first instance, that is by price concessions,

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that is the way the price leader deals with it and when they become sufficiently widespread they result in a general tank wagon reduction; those are the steps whereby the ultimate relief goes to the consumer. We see again when Mr. Halverson offers a concession of a cent in an area, when he perhaps meets competition with a price concession in that area, that does not do any good to anybody except the people in that area.

THE CHAIRMAN: It does not do good to anybody except the people in that company?

MR. FRAWLEY: The co-operative.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Yes, but it is a price concession in an area or in a group. You see if through the operations of Mr. Priestley's company, the people who buy from Mr. Priestley in the net result are getting a price concession through Mr. Priestley, Mr. Halverson will first meet that at those points where Mr. Priestley operates, by a price concession because you see ----

MR. HARVIE: Just the members of the co-operative.

MR. FRAWLEY: Well, as Mr. Cottle suggest to me, that is how the co-operative grows. If Farmer Jones sitting down beside Farmer Smith sees Farmer Smith getting in the net result, paying less in the net result for his petroleum products, the first farmer, if he has any sense, is going to get in, he is going to do whatever is necessary to participate in these lower prices and as the co-operative grows the price concession can only be adequately dealt with by a price, by a tank wagon reduction and that is all I have to say, that again provides competition.

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THE CHAIRMAN: You say the consumers should combine?

MR. FRAWLEY: Yes, yes, for the effect they have upon the general tank wagon price and that is all I am interested in. They get the price for themselves, I am not interested specially, except as a group, if they want to serve their interests, well they form a co-operative, that is in the one area in the province and that probably spreads into other areas and as I said the public generally get no benefit until Mr. Halverson drops the tank wagon all over Alberta.

Now it is the steps which lead up to that that are interesting and need encouragement and what I say is, "encourage anything, encourage anything which will legitimately assert itself on Mr. Halverson's mind sufficiently to induce him to lower the tank wagon price."

MAJOR LIPSETT: How do these co-operatives grow in that sense? can new members come in by paying a subscription or putting up some capital?

MR. FRAWLEY: I think perhaps they buy a share. I do not know what the mechanism of all of them is but the usual thing, as I understand, is they buy a share.

MAJOR LIPSETT: I was wondering from what Mr. Cottle said to you or what you said as to what he had told you, did he mean that new co-operatives sprung up or whether he meant the original co-operative would expand itself.

MR. FRAWLEY: I think both. The original co-operative would grow and new co-operatives would be encouraged to be formed and I have just one more word ----

MAJOR LIPSETT: It needs some capital to start.

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MR. FRAWLEY: Yes, I think that is how it works. I have a few more words and I am finished with this.

Accordingly in our submission co-operative agencies both refining and marketing, should be encouraged. It should be the concern of the licensing authorities to see that no obstacles are placed in the way of the growth of wisely managed and economically operated organizations of this kind, which not only directly advantage their own consumers but by the very nature of their operation, constitute a real threat to the price leader's gallonage, and so, indirectly advantage the general body of consumers.

Now that concludes what I have to say on this one phase of the argument.

MAJOR LIPSETT: Are you going to say anything in particular about co-operative refining?

MR. FRAWLEY: No, because at one stage I had intended to bring from Regina a man who is refining there on a co-operative basis but time got short. We thought we were going to finish at that time in a couple of weeks and we did not bring him.

THE CHAIRMAN: We will now adjourn.

(The Inquiry was here adjourned to be resumed at 2.00 P. M.)

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P. M. Session.

MR. FRAWLEY: Now I want to discuss eight matters that I call collateral marketing matters. They are as follows:-

THE CHAIRMAN: Collateral marketing?

MR. FRAWLEY: Collateral marketing matters, I call them because they do not seem to fit in in any other place.

1. Barrels.
2. Free delivery, so called.
3. Consumer accounts. Properly called Commercial Consumer Accounts.
4. Montana Imports and Southern Alberta.
5. Standards.
6. A composite sort of item, retail margins and doubtful retail marketing practices. Or it really can be called Retail Margins and Allied Subjects. Perhaps that is a better topic, Retail Margins and Allied Subjects.
7. Jobbers.
8. Service station absorption.

Now first Barrels. I must say at once that we subscribe to Dr. Frey's views on this subject. Volume 133 at Page 14,896 Dr. Frey deals with it, and if you will also make a note of 14,900 and 901. Now at Page 14.896.

" MR. FRAWLEY: What is your view,

" Dr. Frey,leaving that, as to whether or not

" the farmers of Alberta or any other kind
" of consumer purchasing in drums should be
" given the drums free?
"A You mean the service of the drums?
"Q I mean the drums first. I would like them
" to get the gasoline free perhaps.
"A It seems to me it would be asking a great deal
" to have the oil companies give drums to the
" farmers free and yet really that is essentially
" what they have done.
"Q They have really given them to them free?
"A Yes.
"Q Yes, now what do you think about that? Is
" that a vicious practice or a good one?
"A From the looks of things they could not escape it
" but as a general principle I would not want to
" enunciate that oil companies should give farmers
" drums free, nor any other customer drums free."

Then at Page 14,900,

he says:-

"Q MR. FRAWLEY: Why did you say a moment
" ago, Dr. Frey, that the practice was inescapable
" here, the manner that the free barrel came about?
"A I think it came about here by reason of the fact
" that very few of the country points do business
" enough to justify exclusive dealers in petroleum
" products and that the merchant here is a mixed
" merchant. He may be an elevstor man, a hardware
" man, an implement man or any one of a number of
" other things or he may sell life insurance, fire
" insurance and many other things and incidentally

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" carries on this business of distributing
" petroleum products and his tank truck would
" be worthless except for the purpose of the
" delivery of these petroleum products, so
" he really is making the truck do more than
" serve as to one industry in his operation
" and it seems to me that in the less populous
" areas in the province, that we must continue
" to expect that type of service until the road
" conditions and the density of population
" advances to the point where it would justify
" cutting....."

cutting out perhaps -
" the tank truck operation. You see your density
" of population here, as I recall, is about 2.75.
" Our density of population in Iowa is, if I
" recall it 42, so that you really have a different
"¼ problem here. "

Now at Page 14,903, Dr. Frey says. Well he is questioned by the Chairman.

"Q THE CHAIRMAN: Before you leave barrels,
" please, Mr. Frawley; Dr.Frey, you know something
" of our density of population now and you have
" learned a very great deal about the situation
" here in Alberta on your two visits, would you
" say that we had passed the point or stage, the
" pioneer stage, and that the farmers should
" buy their barrels or not?
"A I would like to divide the question into two
" parts and first state that Alberta is still

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" frontier. It is one of the few frontiers still
" left in the Americas, in North America, and the
" next thing that I would like to state is that it
" strikes me as a general principle, and not as a
" consequence of the first statement, but that the
" farmer should supply the equipment that he needs
" to carry on his work and part of that equipment
" is storage for gasoline. Now then I make that
" as a general statement knowing no solution for
" dealing with the situation. The farmer must have
" the drums. He must have the gasoline, if he is
" to continue power farming, but just how this
" peculiar situation would work out as between
" companies that never contributed any barrels and
" companies that have contributed many barrels and
" farmers who have bought barrels and farmers who
" have not bought barrels, it seems to me it is a
" puzzle to know how it will work out.
"Q I am speaking of the future. Perhaps the
" companies that have furnished barrels cannot
" collect them back,but I mean starting as from
" today, from September 1st, as from scratch,
" it is true the farmer cannot carry on business
" without containers for his gasoline?
"A Yes.
"Q Equally he cannot use the gasoline unless he has
" tractors?
"A That is right.
"Q But he is not given the tractors?
"A No.
"Q Now why should he be given the gasoline containers?

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"A I do not, I cannot really subscribe to the idea
" that he should be given the containers. Theoretically
" they were loaned and perhaps when there were fewer
" competitors here, the companies that did that may
" have thought they were justified in that they got the
" drum back and no one else got the business but from
" what I have learned here, there has been a very,
" very great deal of difference in the contribution
" of drums to the main cause.
" THE CHAIRMAN: Yes. "

Now them at Page 14,904....

THE CHAIRMAN: In effect he says he has no solution.

MR. FRAWLEY: No solution at all.

THE CHAIRMAN: But as a general principle they should not have them?

MR. FRAWLEY: They should not have them but you know the oil companies are, I think, really trying to do something. It is not new evidence at all but I only heard yesterday - it may be new, perhaps it is not new at all - they make a real attempt and they do charge contractors. You see there is quite a lot of gasoline sold in the summer time to road contractors all over the Province, and they do charge out to road contractors at $8.00 per barrel.

THE CHAIRMAN: However the past may take care of itself, have you any reason to think the oil companies should continue to supply drums free?

MR. FRAWLEY: As they are doing now?

THE CHAIRMAN: Yes?

MR. FRAWLEY: Well, I am just like

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Dr. Frey. Dr. Frey seems to think it must continue because of the situation of the new oil company coming along. I am not going to advocate what the Commission here should recommend.....

THE CHAIRMAN: Now do you get that from Dr. Frey's evidence? I did not. I got from his evidence that in a measure you are still a frontier but the farmer should supply his own equipment. With regard to the situation as it is, it is just a puzzle.

MR.NOLAN: I think, Mr. Chairman, Dr. Frey really means that it is an undesirable practice. He says "I think it undesirable for an oil company to give any kind of equipment, including drums free." That is in Volume 133 at Page 14,897. That is the substance of it.

MR. FRAWLEY: Yes. The next question I did not read was.

"Q What is the practice in the United States
" of America?
"A It has been abandoned so many years except in
" very inaccessible areas that it hardly counts
" with us at all. Except in the instances which
" I cited either in the remote places in the
" mountains or in those fishing caches up along
" our Alaska coast. "

It seems a shame to compare a prosperous place like the Province of Alberta with these places alongside the mountains and the Alaska coast.

" I think it is undesirable for an oil company to
" give any kind of equipment, including drums, free.

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" I do not think that oil companies should
" equip a commercial consumer with tanks and
" pumps. "

And they do you know. That is certainly too bad.

" I do not think they should equip their dealers
" with tanks and pumps and air compressors and
" all the rest of it free. "

MR. NOLAN: The Chairman's point is in principle he is against that.

THE CHAIRMAN: Yes. He has not taken hold of the local situation and said "Now this is what I would do." We tried to start him as of September 1st in Alberta.

MR. FRAWLEY: Mr. Halvorsen, if he means what he says, and I am sure he does - he is going to do something about it. He is going to stop buying any new barrels.

THE CHAIRMAN: And I understand the B.A., are too. They are against buying and giving away barrels and they have a very great investment in it.

MR. FRAWLEY: And Mr. Pootkins says he does not have to buy barrels.

THE CHAIRMAN: True. He uses the others.

MR. FRAWLEY: Yes, he uses Mr. Nolan's barrels. It is a very difficult thing. You will probably understand me when I say I am not going to publicly urge that at and from 12 o'clock noon, beginning the first day

of February, say, there shall be no more barrels furnished to farmers.

MR. HARVIE: Why not say if that should be the practice. If that is the proper practice why not say so.

MR. FRAWLEY: I will say that when the price of gasoline goes down so that the farmer can afford to pay for his barrels and buy his gasoline too. That is my answer. You do something with the price of gasoline and I will talk barrels to you. However, seriously, Mr. Chairman and Mr. Commissioner, there seems to have been a situation grow up in the Province due to this desire to get business years ago which has brought this upon the companies themselves. And now competition keeps them at it. My only objection to it is that it adds to the cost. But it adds very little to the cost of the price leader, whose costs we have been so closely analyzing, because he has depreciated his barrels down so far that it does not bulk very large. It is a very small item in Mr. Halvorsen's marketing costs fortunately. Did you figure out to a decimal point per gallon or anything of that sort what it cost?

MR. COTTLE No. His barrels were depreciated to $17,000.00.

MR. NOLAN: $19,000.00.

MR. COTTLE: As at December 31st, 1938, and perhaps by now they are written off the books entirely.

MR. FRAWLEY: Yes, so it does not figure as a cost. In our market breakdown haven't we got that.....

MR. COTTLE: The cost there is

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largely painting and repairing of barrels.

THE CHAIRMAN: Can you conveniently point to Mr. Halvorsen's evidence at this point while I have it tied up with your discussion? Mr. Halvorsen and Mr. Miller both spoke on barrels. If you will give me the pages I think I have a pretty good memory of what they both said.

MR. NOLAN: I have it, Sir.

THE CHAIRMAN: In your brief?

MR.NOLAN: Yes.

MR. FRAWLEY: It is referred to under drums. Page 81 of Mr. Nolan's brief is Mr. Halvorsen. He has seven references to Mr. Halvorsen.

THE CHAIRMAN: Page 81 of Mr. Nolan's brief?

MR. FRAWLEY: Page 81 of Mr. Nolan's brief.

THE CHAORMAN: Now Mr. Miller's.

MR. FRAWLEY: Mr. Miller is probably referred to in that.

MR.NOLAN: I did not refer to Mr. Miller but I referred to all of the other gentlemen.

MR. FRAWLEY: Mr. Nolan refers not only to Mr. Halvorsen but to Mr. Clayton of the North Star and Mr, Priestley of the U.F.A., and Mr. Beamish of the Canadian Oil Company, Mr. Doherty of the Union and Dr. Frey and that is all.

THE CHAIRMAN: You have Mr. Miller, Mr. Harvie?

MR. HARVIE: He deals with it in Volume 93 at Page 10,597 and 8.

MR. FRAWLEY: Now, Mr. Chairman, passing to the so-called free deliveries. Dr. Frey, I would like to call your attention to what he says in Volume 133 at Page 14,908. That is the first reference. He says:-

"Q Well speaking from the point of view of the
" company, is it not immaterial to the company
" whether the commission agent delivers to the
" farmer or whether he delivers to the dealer,
" for the reason that the company nets back the
" same amount of money from each transaction? "

You will recall that from the evidence the company does not back the same whether it is sold to a farmer or sold to a dealer.

He says yes, the company nets back the same amount in either case.

"Q So that from the point of view of the company
" it is immaterial whether the delivery is made
" to the farmer or not, and therefore, from the
" point of view of the company, the delivery
" cannot properly be termed"free", is that not
" a reasonable conclusion?
"A I think that is reasonable. "

In Volume 135 Dr. Frey refers to it again. At page 15,078.

THE CHAIRMAN: That was Page 14,908??

MR. FRAWLEY: That was Page 14,908 in Volume 133. This is Volume 135, Page 15,078. There is this interesting discussion about Mr. Miller, where Mr. Miller indicates how close he is getting to this

question of charging for delivery. There Dr. Frey says:-

"A The thing does not revolve around the farmer
" so much as it revolves around the commission
" agent. The farmer, as I understand it, pays
" the same price whether he takes the delivery
" or whether he does not. Now if he wants
" delivery he gets it. Now the position of the
" commission agent is different as I understand
" it, because, according to Mr. Miller, he fails
" to get a cent and a quarter if he does not make
" delivery. I do not believe that is true with
" the Imperial, is it, he gets the 2 cents from
" the Imperial, does he not, whether he makes the
" delivery or not?
" MR. McGRATH: Yes, that is right. "

And then Dr. Frey goes on:

"A Now then the other thing which goes along with
" it, Mr. Plotkins, is the problem of the assess-
" ment of costs on the total amount of business
" and that is if the commission agents were not
" in a position to make delivery to farmers and
" consequently get the cent or cent and a quarter
" more than the delivery to the service station,
" can he afford to maintain equipment to make
" deliveries to service stations at 1 cent;
" you see that is the reason I am not coming out
" and going right along with you on that, because
" after all do we know just as to how to assess
" that. "

That is just really all of that. There is further discussion about it as to the distinction between the British aAmerican and the Imperial. The Imperial pays 2 cents commission to the agent whether the delivery is made to the farmer or at the warehouse door. On the contrary, the British American does not pay the full 2¼ cents to the agent when the delivery is made at the warehouse door. The commission then is, as I understand, 1 cent and only 2¼ cents when he actually makes the delivery. So that it is very easy to say this.....

THE CHAIRMAN: But the Imperial?

MR. FRAWLEY: The Imperial pays 2 cents just the same whether it is at the warehouse door or on the farm. The Imperial agent gets 2 cents.

THE CHAIRMAN: There is a difference of a quarter of a cent?

MR. FRAWLEY: More than that.

THE CHAIRMAN: Where they do make delivery does the B.A.,pay one-quarter of a cent more?

MR. FRAWLEY: Oh yes, the British American pays one-quarter of a cent commission more than the Imperial does on farmer deliveries. When the farmer comes to the British American door in the village then the farmer pays the same price as I understamd it, as if he had got delivery on the farm, but the agent is treated differently. The agent instead of getting his 2¼ cents commission as he would if he made delivery on the farm, he gets.....

MR. COTTLE: Only 1 cent. In other words the British American agent only gets 1¼ cents when he actually makes a physical delivery.

THE CHAIRMAN: He is getting 1¼ cents for making the delivery?

MR. COTTLE: Yes, and the Imperial agent as I understand it, gets 1 cent whether he makes the delivery or not. So long as he gets the full posted tank waggon price for the product.

MR. FRAWLEY: Now in view of that situation and the desirability of endeavouring to get a lower price on the farm, consistent always with not wrecking this marketing system, my submission is that the company should post two prices on the warehouse door. A posted tank waggon price which should be charged and collected when the delivery is made on the farm, and a posted tank waggon price less 1 cent when delivery is made f.o.b. warehouse. Now there are two or three more references I want to give you. Volume 99, Page.....

THE CHAIRMAN: Is that what you are advocating in effect, Mr. Miller's system?

MR. FRAWLEY: Yes, because I am going to refer to Mr. Miller now.

MR. NOLAN: Under the British American system the company gets....

MR. FRAWLEY: Yes, I will explain that. Mr. Miller charges the same, he treats the farmer the same.

THE CHAIRMAN: The farmer gets the benefit of.....

MR. FRAWLEY: Mr. Miller stops half-way as far as my submission is concerned.

THE CHAIRMAN: Mr. Miller gets the benefit of what would be a delivery charge if made by his agent?

MR. FRAWLEY: Yes. Mr. Miller puts that

in his pocket. I say give it to the farmer. If you are going to take it off the commission agent you jolly well give it to the farmer. Do not put it in your own pocket. That is the difference between my submission and what Mr. Miller says he is doing now. Now perhaps you might set down there when you are taking down these references, Mr. Miller at Volume 99, Page 11,143. That is the part I read this morning. So I simply give you the volume and page, Volume 99, Page 11,143. He says there very plainly:

> "A Our view is that it would be more satisfactory
> " to have one price f.o.b. warehouse for farm
> " deliveries, providing the authority or govern-
> " ment agency would enforce compulsory elimination
> " of free delivery; in the event of this not
> " being possible, two prices, one for delivery
> " and the other f.o.b. our warehouse may be
> " advisable. "

So you see it is fair to call attention to what we are saying that Mr. Miller does put the saved commission in his own pocket.

THE CHAIRMAN: But that is not what he is now advocating?

MR. FRAWLEY: He is willing to go further. He is willing to go as far as I am suggesting should be gone. He is willing to post two prices, I take it, Mr. Harvie will correct me. Not what is advocated in this reference on 11,143, that the saved commission would be passed on to the farmer. That is how he would leave it with two prices.

Now Mr. Halverson deals with it.

THE CHAIRMAN: So in the result as I suggest, in your view it might be wise to adopt his proposal.

MR. FRAWLEY: Yes.

THE CHAIRMAN: His proposal put before this Commission, whatever they may have done in times past.

MR. FRAWLEY: Yes, and if it does not work out, I do not see anything fatal about any of these things, if we find when that system is set up, with a perfectly proper desire to give the farmer something cheaper if he can perform the service for himself, that is all, as I heard the expression many times while the witnesses were on the stand, if the farmer performs part of the service should he not get some benefit; now that is all I am seeking and that is all I am suggesting and it seems a reasonable thing but if, if, for the reasons which I will point out in a moment, the Saskatchewan experience which was called to the attention of the commissioner and the other reasons, if it does not work out there has not been anything awful done. It can be undone and the whole system will have to go back to the way it is today but what I am seeking to do is, without doing anything rash because there is no sense in me asking this Commission to make rash recommendations but if it is found it does not work out, why nobody is any worse off. If the Commission agent cannot operate to make delivery to these

farmers who have to have it, these farmers who have to be, as it were, carried along by the other farmers that are willing to perform their own part of the service----

THE CHAIRMAN: However there, we have Mr. Halverson's evidence as to that, that it is quite impracticable.

MR. FRAWLEY: Yes, Volume 84, page 9677 is I think the place, page 9677. There probably are other places but, yes, this is what I mean, perhaps I should just start reading here, well to be fair to Mr. Halverson perhaps I should read this at the bottom of page 9676:

> "A. But there are certain intangible ad-
> "vantages, for one thing these agents when
> "they go out with their trucks are able to
> "pick up our steel barrels, we would not
> "have nearly enough barrels today to take
> "care of our business if we did not have
> "these trucks because they keep the bar-
> "rels moving and they give many services
> "to the farmer besides merely delivering.
> "At the beginning of threshing, as I
> "mentioned, they pick up his wheat and
> "bring that in '

Now I do not know whether Mr. Halverson means that the petroleum industry is paying for free service. If that is what he means that is one thing:

> "They pick up his wheat and bring that in and
> "they supplement their own earnings'

MR. NOLAN: He means they cannot get

along on the one cent commission, that is what he means.

MR. FRAWLEY: Yes.

"And they supplement their own earnings that "way and they are a real accommodation to "the farmer as well and by having these "trucks they are able to use these trucks "for other purposes and supplement their "earnings and it is questionable if they "had no trucks at all, it is very question- "able, whether they could do business for 1 "cent per gallon flat. When I assumed there "would be a reduction of 1/2 a cent I may "have been assuming too much, for even if "they were not delivering to farmers they "would still have to deliver to dealers.

"Q. Well you say they would still have to "deliver to dealers?

"A. I would think so.

"Q. But that is not the same kind of "distribution?

"A. No, but they would need the trucks for "that though.

"Q. Yes?

"A. And if they didn't have a truck they could "not supplement their earnings and perhaps "they would need more commission. It is a big "question.

"Q. But if you put every farmer on a cash and "carry basis, make him come in and get his

"gasoline supplies, just the same as he
"has to come in and get his repair parts
"for his binder when he breaks down in the
"Fall, as he has to come in and get his
"week's supply of groceries, couldn't you
"save marketing costs?
"A. I mentioned that theoretically we could
"save 1/2 a cent a gallon although I doubt
"very much if it would be that much."

What does Mr. Halverson mean, when he says he can save a 1/2 a cent, the farmers do not demand any delivery cost.

MR. NOLAN: He was making an estimate of the cost of delivery.

MR. COTTLE: Yes, dividing it by the total gallonage in the Province.

MR. FRAWLEY: I know but what has that to do with the problem, if the farmer is willing to come in and take delivery at the door of all his gasoline requirements, couldn't the gasoline be sold to him at less, much less than it is now.

MR. COTTLE: I think what Mr. Halverson had in mind is if they abolished free delivery and saved the 1ø delivery to the agents, they could lower the whole tank waggon structure over the whole Province by a half a cent a gallon.

MR. FRAWLEY: City and country and everything else.

MR. NOLAN: Yes.

MR. FRAWLEY: Now that is what Mr.

Halverson said at that place and then Dr. Frey deals with it----

THE CHAIRMAN: I certainly had the impression that Mr. Halverson goes further than just disapproving of this, that he says "this just cannot function. They cannot afford to maintain trucks by making deliveries to these farmers who are in the inaccessible places".

MR. FRAWLEY: Does he say anything more than that.

MR. NOLAN: Volume 81, I have got notes on this, sir, in my brief.

THE CHAIRMAN: Quite and I am not forgetting your brief in the least but I would like to tie it around the argument as you each go along.

MR. NOLAN: Page 9294.

THE CHAIRMAN: It saves me later in a consideration of Mr. Frawley's argument, it saves me going to yours.

MR. FRAWLEY: This is when Mr. Halverson was here first in June, when he was first making his submission.

THE CHAIRMAN: Yes.

MR. FRAWLEY: He then says----

THE CHAIRMAN: Volume 81?

MR. FRAWLEY: Volume 81, page, I would suggest page 9283-94-95 perhaps. Now we will just see what he says on page 9294, at the bottom of page 9293:

"It is however, our considered opinion - after "having gone into the matter thoroughly - that "the farmers demand free delivery of their "products. Of course, free deliveries to "farmers could be discontinued by legislation "the same as rural mail routes could be dis- "continued, but we are strongly of the opinion "that such a policy would be viewed with dis- "favor by most farmers. After all the farmer "is getting his products delivered at only 1¢ "over the price which applies to undivided "dealers who may buy from 10,000 gallons up- "wards in one year. Our commission agents in "reality are retailing to farmers in 20 gallon "quantities and upwards at only 1¢ over the "price to undivided dealers. Our commission "agent would find it impossible to make a liv- "ing."

THE CHAIRMAN: That is it.

MR. FRAWLEY: 'Our commission agent "would find it impossible to make a living, "on a commission of 1¢ per gallon as truck "equipment would then be required only for "deliveries to dealers which the commission "agent could not afford. Besides he would be "deprived of the supplementary earnings that "he is at present making by doing outside "work with his trucking equipment and is thus "able to carry on with a much lower commission "than he otherwise could."

Now Dr. Frey deals with it too , of course. Then the reference to the Saskatchewan experiment and Mr. Halverson's is Volume 137, page 15,388.

MR. NOLAN: To page 15,390.

MR. FRAWLEY: And Mr. Nolan says on to page 15,390. Perhaps I need not read that.

THE CHAIRMAN: No.

MR. FRAWLEY: He says:

"We arranged a price ex warehouse to the "farmer of 1 cent less than the delivery price "and this is how it worked out in practice. "Those farmers who lived within 4 or 5 miles "of the plant were more inclined to call for "their products and during the off season "when the farmers were not busy they would call "at the plant for their products from a greater "distance. But during the busy season of "threshing and sowing, when the farmer was "busy, he wanted a delivery service. The "farmers who lived more than 5 miles away "wanted a delivery service. So the net re- "sult was that our agents became a conven- "ience where they were called upon to make "delivery service to the farmers living 8 or "10 or 15 miles away from the agency and "were deprived of the revenue of their sales to "farmers living closer. And they were also "deprived of that 2 cents commission during the "off season. So that our agents came to us and "said"

and so on.

Then Dr. Frey deals with it in Volume 135, page 15,099 and there Dr. Frey says:

"In fact I know of places down in Kansas
" where elevator companies are not trying
"to make any money on gasoline and charge
"half a cent over their laid in cost to
"the farmers who come in and get the
"gasoline. Now, the jobbers in gasoline,
"or anything else as far as that is con-
"cerned, they could not get by on that.
"But they are not merchants of petroleum
"products. All they are is forcing a com-
"petitive situation against certain other
"types of elevators that they do not want
"to have gain ground in that particular area.
"So it really is not fair competition. But
"it is simply an arbitrary figure of half a
"cent plus and "Come and get it". Now, I
"think that if that rule were applied in
"Alberta there definitely would be periods in
"which the consumers would be at a disadvantage
"probably a disadvantage at the most important
"time in the year to them.
"Q. You take it if two farmers living 10
"miles away'

Well I will read this '

"You take it if two farmers living 10
"miles away each from the agent. Farmer

"A comes into town and gets the gasoline at "the tank. Farmer B telephones for about 50 "gallons or whatever it is, to be sent out "to him 10 miles away. Both pay the same "price?

"A. Yes, sir.

"Q. It does look in that case as if the "man who gets it sent out 10 miles away is "getting something done without any additional "charge?

"A. Yes, it looks that way.

"Q. Whether you call it free delivery or not?

"A. Yes, in that individual transaction it "does look that way. It is the same thing in "a store."

And then we have the instance of the Hudson's Bay blanket.

"Q. I suppose, Dr. Frey, whatever view one takes "of the different questions as it affects the "farmer, whether it is free delivery or not, "that should be kept quite distinct from the "other question as to whether this company pays "the delivery by this cent or whether that one "cent that they give the agent only does a part "of the delivery and the agent himself pays "part of it. The two questions are quite dis- "tinct?

"A. Yes, I feel they are quite distinct."

And then he deals with it again on page 15,101 and I

think this is helpful, page 15,101 in Volume 135:

"MR. FRAWLEY: Do you think, Doctor "Frey, just following up what Mr. Commissioner "Lipsett said, and I was going to ask you about "this later on and I could, of course, but it "seems to me, listening to what Mr. Miller said, "we are getting pretty close to a reasonable "suggestion that a distinction be drawn and "that the Company be requested to post two "prices at their commission point, one for de- "livery to the farmer and one when the farmer "comes in and carries it away, a cash and carry "price, I mean Mr. Miller makes that distinction, "he thinks there is a different transaction when "the farmer does not ask for delivery. I agree "it is all the same to the farmer but Mr. Miller's "arrangement with his agent is a different one.

"A. His arrangement is different, that is true.

"Q. That is quite true?

"A. Yes. I think we would have to examine the " nature of his arrangement in order to make a "clear-cut distinction.

"Q. Now keeping to his arrangement then, do you "think it would be approaching it, if Mr. Miller "were expected to post two prices, one a delivery "on the farm and the other a delivery at the "warehouse?

"A. Well I would say that if for any one who "has arrived at the philosophy which Mr. Miller

"has, that it woul be quite logical to distin-
"guish; on the other hand I would say to anyone
"who has arrived at it by the way Mr. Halverson
"has, that it would be quite hard.
"Q. Mr. Halverson has adopted the principle
"which lies in the incident you gave of the
"person going into the Hudson's Bay and buying
"a blanket and taking it home, that he does not
"do any better than the man who buys a blanket
"and asks for it to be delivered out to the
"edge of the City?
"A. Yes.
"Q. And you say that has to average out?
"A. Yes, I do not say that either one is
"right or either one is wrong but Mr. Miller
"has a shorter distance to go than Mr. Halverson
"in trying to draw a line between the tran-
"sactions."

Now that was all I think.

MR. NOLAN: No, no, that goes right on from page 15,101 to 15,106. Dr. Frey discusses the mutuality of the situation which is hard to break and he also tells us that his first jump at the situation was that the delivery was clumsy and he thought inadequate and now he has to admit that he has practically reversed his position because he knows more about the economics of the situation.

MR. FRAWLEY: Yes, that is what he says now, that is on page 15,105, he says he has learned more.

MR. NOLAN: After his first jump.

"Q. The agent in other words might not have "100% or a fair percentage of employment for "his trucks, if the farmer delivery business "was eliminated?

"A. Yes, it seems clear that I have switched "around on this point of view because my first "jump at the situation here was that the de- "livery mechanism was an extrememly clumsy and "inadequate mechanism and I will have to admit "that I practically reversed my position on the "matter because I have learned more about the "economics of the thing and to me it just "seemed extremely clumsy and wasteful when I "came into it and I do not look at it that way "now because I know the function, I know more "about the function of the persons who were mak- "ing delivery than I did at the outset. It seemed "to me at the outset that he was a petroleum mer- "chant. He is not that to me now, that is "partly what he is and we have then the difference "between the straight out and out 100% merchant "and a man who is in mixed merchandising."

MR. FRAWLEY: And I suppose perhaps----

THE CHAIRMAN: What page is that?

MR. FRAWLEY: That page is 15,105 in Volume 135.

MR. NOLAN: And it concludes on the next page. He comes back to the 10 farmers coming to town.

MR. FRAWLEY: Yes, page 15;106;

"A. So I think the same thing applies to "this type of delivery, the 10 farmers re- "ceiving delivery through one truck probably "are working at a great saving, instead of "10 farmers practically coming to town for "10 separate deliveries."

I think perhaps that is all.

My submission is that, I must say notwithstanding, notwithstanding what has been said, I see no harm in it, no harm in a recommendation that the thing be tried, as Mr. Miller seems anxious and willing to try it, willing anyway, and he has a lot of gallonage. It would be very interesting to see how it works out. Perhaps that of Mr. Miller's, that might be the middle course-----

THE CHAIRMAN: I was just going to say----

MR. FRAWLEY: Observe Mr. Miller for a while.

THE CHAIRMAN: Watch Mr. Miller. Mr. Halverson says he cannot do it.

MR. FRAWLEY: That is right and if Mr. Miller makes a success of it then Mr. Halverson will wake up some day and find out that he after all can do it.

THE CHAIRMAN: Yes.

MAJOR LIPSETT: What exactly does that come to, Mr. Frawley, in the way of a concrete suggestion,

does it denote some price-fixing body which will see that there will be a cent off the price to farmers who come and take delivery, br a cent and a quarter, whatever it may be.

MR. FRAWLEY: It is bound up with what I said this morning when I said I was a little out of my subject in the posting of the prices. The two things go together, post two prices, it is two prices and I say a cent off. Well I am not tied to that. Mr. Miller suggested a cent, a cent off. "You come and get it, it costs you one cent less. You ask for delivery, you ask delivery to be made to your farm you pay posted tank waggon price at Edmonton point. If you come and get it one cent off."

THE CHAIRMAN: Did Mr. Halverson say,- and it is my memory that he did, not only that he thought it was a failure in Saskatchewan but that it had to be abandoned.

MR. FRAWLEY: I think so.

MAJOR LIPSETT: He says that there was pressure from their agents that they couldn't carry on and they had to give it up.

THE CHAIRMAN: They stopped it, that is what I wanted to know.

MR. FRAWLEY: Oh yes, they stopped it.

MR. NOLAN: Page 15,389, "The agents came and said".

MR. FRAWLEY: "Our agents came to us", just precisely where I stopped reading, this is page 15,388:

"So that our agents came to us and said "they would discontinue delivering to farmers "entirely because it did not pay them unless "we would pay them a 2 cent commission on "all farmer deliveries at all seasons of "the year. So we were faced with the sit- "uation then of abandoning deliveries to "farmers, in which case our agents would "have given up their trucks and in which case "we would not have had trucks to deliver to "our dealer trade; and furthermore, our agents "very definitely told us, a great number of "them, that if the remuneration that they got "from delivering to farmers were taken away "from them they would want a higher average "commission for delivering to dealers. So in "practice it did not work out. It would have "meant, if we had not reversed our position, "that the farmers would have been deprived of "the delivery service and we in turn would have "had to pay the agents a higher commission rate "per gallon for delivery to dealers or to "farmers at the company warehouse.

"Q. And that is what you wanted to say on that?

"A. That has been our experience and we tested "it out for an entire year.

"Q. MR. FRAWLEY: You have not the "slightest objection in the world to giving a "farmer a cash and carry price if it would work

"out but you just do not think it would work "out?

"A. That is right.

"Q. I must confess I was struck with what Mr. "Miller said about it. He is getting very "close to it. For a warehouse door sale he "pays 1 cent commission and for a delivery on "the farm sale he pays 2¼ cents commission. "If that is so that company with a fairly "wide distribution has gone a long way along "the line of the cash and carry principle. But "they do not look at the other side of the "picture and give the farmer the benefit. They "say to the agent "You have not done anything at "all but make delivery at the door and you will "get 1 cent commission for that." There is a "lot of sense in that. But why should not there "be an extension of that to give the farmer the "benefit of it for coming in? He does all the "service?"

The careful Mr. Halverson.

"A. I do not wish to discuss the policy of "our competitors. I wish to refrain from that. "But I think any competitor doing business on "a big scale in this Province that thinks it "can discontinue delivering to farmers and "hold its position is mistaken. They, per- "haps, feel that if we all did it that it "would lend itself to their system of dis- "tribution but, of course, we have got to look

"at it from our standpoint.

"Q. Mr. Halverson, it may be politically un-
"wise that anybody should try in this agricul-
"tural Province to take anything away from the
"farmer that he has got. But that is not the
"point. I would like to discuss it and this
"Commission wants it discussed and intends to
"make its recommendations apart from any
"political consideration. In other lines of
"endeavor there is some effort made, is there
"not, to give a man some remuneration when he
"performs nearly all of the service himself.
"Now, why cannot that apply in this oil industry?
"A. I just explained a few minutes ago----
"Q. That it did not work out in Saskatchewan?
"A. As far as the question of delivering to
"farmers in Alberta is concerned, I went into
"that extensively in June when I gave evidence
"and I dealt with it particularly in Exhibit
" "314", and as far as our company is concerned
"it stands by that evidence.
"Q. I did not bring the question up."

Yes, that is what I said to him "I did not bring the question up", and then I went on to something else. There is where we are.

MAJOR LIPSETT: Would it not be quite accurate to say that the British American just takes the cent and a quarter and puts it in their own pockets. In order to make that workable at all or feasible and

get over the difficulty which the Imperial experienced in Saskatchewan, the British American has made a very large capital outlay to increase the number of their agencies throughout the Province to bring the farmers---

MR. FRAWLEY: Closer.

MAJOR LIPSETT: The farmers' products nearer to him.

MR. FRAWLLY: Yes.

MAJOR LIPSETT: Which would, I suppose, absorb quite a bit of the cent and a quarter.

MR. FRAWLEY: That is practically what Mr. Halverson says. They may be able to do it because they have made some changes in their basic distribution system.

MAJOR LIPSETT: Therefore the British American may not be faced with the difficulty which the Imperial was faced with by their Saskatchewan agents because the farmers would be all so much closer, owing to these extra agencies.

MR. FRAWLEY: Yes. Of course it depends to what extent the British American develops,- they are still locating the dealer-distributors as I understand but I mean there must be some, there must be a good deal of the British American customers that are quite some considerable distance removed from the supply still, still.

Well it seems to be one of those things that is being worked out and all my submission amounts to is we must try it. I do not see anything very fatal about it. If it does not work out, but we must certainly strive to give the man who is perform-

ing a part of the servi e something for it and I am just blocked like with a stone wall, this Imperial marketing system.

MAJOR LIPSETT: Take the British American who have got over some of the difficulties of the Imperial, you say they should be compelled to post two prices for farmers, one at the agency and one taking deliveries.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Or do you say that they should eliminate delivery altogether.

MR. FRAWLEY: Oh no, no. I just say two prices. It is like so many of my submissions. It is availability, make available to the farmer these two prices and let him choose and if they break down, I mean wait and see what will happen.

THE CHAIRMAN: You say "Let us try it", now that is very simple but who is to pay for the experiment if it doesn't work.

MR. FRAWLEY: Well----

THE CHAIRMAA: You see, I am just asking for your view, should we not have some idea that it is going to work before we put upon somebody else the burden of spending, how much money we do not know.

MR. FRAWLEY: I know, Mr. Chairman----

THE CHAIRMAN: If you are inviting that the person seeking the experiment pays the shot that is another thing.

MR. FRAWLEY: Well the consumer will pay I suppose in the end but all I am concerned about at the

moment is this ----

THE CHAIRMAN: Would the result of your suggestion mean that the Imperial's system which Mr. Halverson, now I do not remember his evidence page by page but I have a very clear impression that he is distinctly of the opinion that the British American's system is not as good as their own.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Putting it in a few words.

MR. FRAWLEY: Surely, that is right.

THE CHAIRMAN: And that the Miller scheme is going to be a flop, to put it in the language of the street.

MR. FRAWLEY: Yes,"it is not going to be of any good to us. We do not want it at all".

THE CHAIRMAN: And Mr. Miller is equally of the opinion that he has the better system. Now at this minute what would you say Dr. Frey said as between those two, if you can put his views in a nut shell.

MR. FRAWLEY: I think Dr. Frey points out the possibility that the Commission agentscannot function without the earnings which come from the delivery.

THE CHAIRMAN: In short he inclines towards the Halverson point of view.

MR. FRAWLEY: Yes, he does.

THE CHAIRMAN: Now you say, "Well Miller is trying something and it seems worth while", and I see nothing wrong with the submission other than to say this, that are we not to have a conviction brought to our mind

that it is right before we say such a step should be taken as to require the other company to market at a great loss or change its whole system, while it is only an experiment.

MR. FRAWLEY: Well I can say----

THE CHAIRMAN: Something which will mean a tremendous capital expenditure.

MR. FRAWLEY: I will say one thing----

THE CHAIRMAN: It is easy to go back and say "Let us try this" but you do not know, with a lot of fine machinery, you do not pull out a wheel here and a wheel there to see what will happen."

MR. FRAWLEY: Well you see I know, but I do not like to keep repeating it, I am just saying nothing about it at all, it is Mr. Halverson's system and it is just laissez faire and it is functioning, I am trying to make a suggestion to give a cheaper price to the farmer but it is almost impossible to combat the suggestion which is a perfectly a proper one and which I must try to meet, what is the necessary consequences of Mr. Halverson being compelled of course to do this.

THE CHAIRMAN: You see on the evidence which we have it is perhaps not a fair criticism to say this is laissez faire unless we do something right away to lower the price regardless of who or how it hurts, that is laissez faire, but the industry has not followed a policy of laissez faire but has spent enormous sums of money to improve in every way the results of its industry and has given surprising results to the public in their

products in the last 30 years.

MR. FRAWLEY: The industry all over.

THE CHAIRMAN: Yes, all over and I do not know that it is different here. They are trying, they are trying. Now supposing the marketing system works out and it would not be the failure that one would think Mr. Halverson thinks it will be but that on the contrary it is an entire success, have you any reason to suppose that it will not be adopted by every functioning oil company in Alberta.

MR. FRAWLEY: What you say, Mr. Chairman, is -----

THE CHAIRMAN: I say it is a dangerous thing. I suggest to you for your consideration that it is a dangerous thing to say "Now something new is being tried out", just as other companies have tried so many things. "It is being tried, it is in the course of being tried. It is in the experimental stage. Now we will make everybody do it or pay a penalty in real dollars".

MR. FRAWLEY: Well you know----

THE CHAIRMAN: It is something we will have to think of very seriously.

MR. FRAWLEY: It is happening every day in the milk distribution. You pay x cents for a bottle of milk delivered on your door step and you pay x minus 1 cent if you go to the store and take it home yourself. It is the same principle exactly that I am endeavoring to apply here. It is just the cash and

carry principle.

THE CHAIRMAN: Mr. Frawley, in the milk end you are talking about the populous centres. You are not talking about a situation that is Province-wide in its application. If you were delivering milk 33 miles West of Peace River and you were having to help pay for it in Calgary, a new problem would arise surely.

MR. FRAWLEY: That may be so.

THE CHAIRMAN: I do not know.

MR. FRAWLEY: Oh yes.

THE CHAIRMAN: I am putting things to you as they occur to me.

MR. FRAWLEY: That comes back to the fact that in Calgary we are probably paying for this distribution up in the Peace River.

THE CHAIRMAN: Quite so, just as perhaps we are paying for certain railways and lots of public utilities that we should not be paying for, in the far-flung parts of this Province but they are there.

MR. FRAWLEY: Oh yes, but we are asked to inquire into and suggest improvements, sensible improvements only in this industry.

THE CHAIRMAN: But there being these marketing services, wisely or unwisely , is it today wise to try and withdraw them.

MR. FRAWLEY: The thing is, Mr. Chairman, when is there to be any improvement? Assuming that there is nothing at all, nothing at all, in the cash and

carry principle, just the principle that when a man performs a part of the service there should be some recompense to him,-if there is nothing in that at all then how are we going to get away from that, how are we going to commence to get the benefit of that. If it is sound at all. If it is wholly unsound from the beginning then we do not want to worry about it.

THE CHAIRMAN: It strikes me at the moment if you want a pure experimental thing, if the Government of the day wants a pure experimental thing in Alberta they should pay for it and take the chances. That is one thing and the other thing is if the Halverson theory is right, then the farmer who is away out and who can least afford to pay for it, has to pay about 5 times as much to get his products, because he is not going to get it for nothing, get his delivery, for nothing, while the man who can come in and get it gets an advantage. It is something like taxation. You distribute the burden. I do not know. I have no fixed views about it. As my friend says I am thinking out loud for your consideration.

MR. FRAWLEY: If he has to pay more than he would be paying by reason of the fact that he would have to come for it however he could, horse or buggy or any other way, if the agent could not make delivery, if he just said "I cannot do it. I will discontinue delivery-altogether", then I just want to understand----

THE CHAIRMAN: Either that he cannot function or he has to get it at much greater cost to him per gallon of gasoline.

MR. FRAWLEY: The farmer?

THE CHAIRMAN: Yes.

MR. FRAWLEY: The farmer?

THE CHAIRMAN: Yes.

MR. FRAWLEY: Well, if the agent has to discontinue completely then the farmer is there. He is out there and no gasoline.

THE CHAIRMAN: And no service.

MR. FRAWLEY: No service. He has to come in. I suppose they all have a horse. So he has to come in with his horse and get it, so that will be expensive, that is what you are putting to me?

THE CHAIRMAN: He says how can they afford to have a truck to even distribute it around town, as I understand it, to the man whom they must get it to. It is very involved.

MR. FRAWLEY: Of course it is involved, and that is why I simply say-----

THE CHAIRMAN: And those from whom we are, perhaps, entitled to expect guidance seem to leave it somewhat in its involved state.

MR. FRAWLEY: Dr. Froy, I suppose he was careful not to say that what Mr. Miller was doing was wrong. He simply says one who thinks as Mr. Miller thinks then it would seem a short distance for him to travel to go the whole distance and post two prices.

MR. COMMISSIONER LIPSETT: Would that involve, if one put it to its logical conclusion, that you would similarly have to have two prices for the dealer; one for the dealer who comes to the agent who does his own delivery and the other to the dealer whom the agent makes delivery to. One would be logical I suppose just as much as the other?

MR. FRAWLEY: Yes. A lot of deliveries to dealers are made in stake trucks and barrels. I dare say some

of those dealers go to the agency points, if they live in towns adjacent to the village or town where the agent is, they go to the agency point and take delivery. We can safely assume if the dealer goes 8 or 10 miles to an agency town and takes delivery that he probably gets some consideration extended to him.

THE CHAIRMAN: You told us two or three times you propose to eventually advocate the setting up of some sort of a body to consider petroleum problems. Supposing that view were accepted, would it not properly be the function of such a body to just watch such an experiment as Mr. Miller is putting on?

MR. FRAWLEY: Yes, undoubtedly.

THE CHAIRMAN: Instead of us saying "Willy nilly, you are all going to experiment."

MR. FRAWLEY: I am going to give them several other things to watch and they might just as well be watching that along with the other things. The drainage law and things like that.

MR. COMMISSIONER LIPSETT: It is complicated too by this sort of consideration, that if you charge a certain price to a farmer who comes and makes his own delivery and so much, a cent or whatever it is if he gets delivery, is it quite fair to charge 1 cent to the farmer who only lives 2 miles away and still charge 1 cent to the farmer who lives 12 miles away?

MR. FRAWLEY: I suppose there will have to be some minimum.

MR. NOLAN: The farmer who lives 2 miles away or the farmer who lives 3¼ miles away. That was Mr. Priestley's point.

MR. FRAWLEY: I quite agree I must not be advancing rash conclusions or even making rash submissions.

THE CHAIRMAN: However, you are making suggestions that are at least thought-provoking.

MR. FRAWLEY: Now, I want to deal with the commercial consumer accounts of whom we have heard considerable. I have some views about that. Let me state my submission at once. Well, Mr. Cottle tells me he now has the figure of the cost of the barrels per gallon of gasoline.

MR. COTTLE: Exhibit "282", column D, shows Imperial barrel expense, which totals for the year, $23,403.87, and works out to 9/100 of a cent per gallon on white products, on the total white products sold in the Province.

MR. HARVIE: That is taking their depreciated figures?

MR. COTTLE: Yes, that comprises depreciation of $10,463.61 and the balance of the expense of $12,840.00 consists of wages, painting repairs and supplies.

MR. NOLAN: What did you say, 9/100 of a cent?

MR. COTTLE: 9/100 of a cent per gallon.

MR. COMMISSIONER LIPSETT: Less than 1/10 of a cent.

MR. COTTLE: Slightly less than 1/10 of a cent. In the previous year that figure was .39 cents per gallon, almost 4/10, the reason being that the depreciation of the previous year was a great deal higher than in 1938.

THE CHAIRMAN: You say "Well, all right, that is the situation so far as the Imperial and the B. A. will follow." But I suppose we should not lose sight of the fact that it is a very serious matter to the B. A. because they have not got all this written off.

MR. HARVIE: Particularly where in the one year it is four times as much as the year before, or the succeeding year?

MR. COTTLE: Yes, the usual charge, if my memory serves me correctly, on depreciation on barrels was about $75,000.00 a year prior to 1938. That compares with the $10,500.00 for 1938, which reflects the figure to which the barrels have been written off.

MR. FRAWLEY: Now, Mr. Chairman, going to commercial consumer accounts. Our basic submission is that all consumers, subject only to considerations of volume, should be able to buy at the same price if they own their own equipment. All consumers, subject only to considerations of volume should be able to buy at the same price if they own their own equipment, the farmer or the city dweller. Dr. Frey deals with it in Volume 133. There are two or three pages, starting at page 14,909.

THE CHAIRMAN: Volume 133?

MR. FRAWLEY: Yes, Sir, page 14,909.

"Q MR. FRAWLEY: I wonder if it is fair to set
" right down in the midst of this discussion, the fact
" that the companies do sell to consumers, not farmer-
" consumers, but other kinds of consumers, at dealer
" prices, not at 1 cent more. You do know, of course,
" that they still sell the small consumer, the size,
" the evidence is, it does not make any difference,
" they still sell to consumers at 100% dealer price,
" and I do not know why there should be any difference
" between the man in town and the man on the edge of town
" and I wondered what your views are about that. I know,

J. J. Frawley, K. C.

" of course, that that consumer in town who buys at 100%
" dealer price has some equipment, buys some equipment
" from the company, and pays for it over a long period.
" I think some of the evidence is that no interest is
" being charged at all in the case of some companies,
" what do you say about that?
"A Well I do think that transportation enters into the
" question of the differential that exists.
"Q You think that transportation does?
"A I think transportation does enter into it but just how
" much, that I do not know and I do not know whether it is
" calculable but there certainly is a difference between
" delivery to a customer in town and delivery to one 8 or
" 10 miles out in the country and of course, there is a
" difference also between the one who is three miles out
" and the one who is ten miles out."

Then at page 14,911:

"Q I am looking at it from the standpoint of the consumer,
" the town consumer against the country consumer. Mr.
" Halverson says they are located down town. Now, he
" might call North Edmonton down town in Edmonton, but
" I say it is miles and miles away from his bulk plant.
" It is true out there near the packing plants and other
" consumers he has there he would have dealers and so he
" goes from the dealers to these consumers out in North
" Edmonton. I am trying to give you the physical
" comparison with something that must compare very well
" with a delivery by an agent to the farmer in the
" country, as far as actual physical transportation is

" concerned, and on the difference ir the price that is all.
"A I do not know that you can justify these differences
" entirely in terms of transportation nor do I want to say
" that the arrangement is one that in making the differential
" between the commercial consumer and the farmer has been
" given any long consideration by me. The principal kick,
" I would say, was not with respect to the farmer and what
" he is paying over the commercial consumer. I should say
" it would be, the principal kick would be with the dealer,
" that the dealer might say that the commercial consumer
" was getting too low a price and that he was being taken
" away from him.
"Q True, and that he was a dealer's customer and not a
" supplier's customer. That is what they do say in this
" Commission.
"A But with the farmer, I cannot see that the farmer is
" being injured by the commercial consumer discount.
" But it might affect the business of the dealer.
"Q Well, that is true, and I am glad to have your views
" about it. I am not saying that the farmer complains
" and puts down as against his situation the situation of
" the commercial consumer in town. Perhaps he does not
" know anything about it. But I am suggesting it to you
" as something that has emerged from all this evidence
" that would seem to be somewhat discriminatory in the
" company having a policy for town consumers and another
" policy for country consumers?
"A They really do not classify exactly. The thing that I
" am at a loss in this matter on is I do not know whether
" there are any minimum deliveries and I do not know what

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" the average commercial consumer business amounts to,
" and I do not know how it compares with the filling
" station fill-ups. I am just short of information.

"Q Then I certainly will not press you too far at all."

Then Dr. Frey says something that he was incorrect about, only because of the information given to him by the companies not being just entirely accurate. He says on page 14,913:

" As I understand it, that applies---"

that is this selling to the commercial consumers -

" that applies only in two points and it does not apply
" to commission stations."

But now on the 24th of November, Mr. Halverson wrote to Mr. Nolan, and that was read into the evidence and he tells us that there are some commission points at which that is done. So that the commercial consumer does extend throughout the Province, both at such points where the companies operate their own salaried tank trucks and at commission points where the burden is to be picked up by the commission agents. Now, Dr. Frey - this is rather significant, this whole discussion with Dr. Frey concludes here, he thinks is so unsatisfactory that he suggests that the Imperial might make a statement when he stepped down from the stand "And let me comment afterwards." I said "Yes, that is a very good suggestion," but it never was followed up. I think then the fair inference was that Dr. Frey regarded this business of commercial consumer accounts in this Province as not being particularly satisfactory; as not being any too satisfactory anyway. I think it does give me the opening to make the submission to the Commission which I do make, that there is not any reason in the world for the difference between the

town man and the country man. If I am a farmer and I see fit to go to the Imperial Oil Company or any other company and buy a tank and a pump and put it in the ground on my farm, then let them come and make delivery to me at the same price as they do the undertaker in the City of Edmonton who has two or three units and gets this same privilege. That is one side. There is the other side about it being unfair to a dealer taking away from him the man who is by all tests the retailer's customer. The undertaker in Edmonton with two or three trucks, buses and hearses, surely is a retailer's customer. The wholesale grocer in Edmonton or Calgary with two or three trucks surely is a retailer's customer. But these oil companies have created a situation, or listened to the importuning of the wholesale grocer - I do not know which - whereby the wholesale grocer is privileged to come in and enter into a long-term arrangement for the purchase of a tank and a pump and gets under the posted tank waggon price. That certainly always struck me as being the last straw of discrimination. Not the posted tank waggon price but the same price as the reseller's.

THE CHAIRMAN: I just wonder how does that advantage these companies?

MR. FRAWLEY: Advantage them?

THE CHAIRMAN: Yes.

MR. FRAwley: I do not know that it advantages them at all.

THE CHAIRMAN: I wonder how the practice grew up. Did they simply say "Well, this is a matter of volume and we do not care whether you call yourself a retailer or a wholesaler, you buy enough from us....."

MR. FRAWLEY: That is just the point, I tried to be clear about that in examining the witnesses. This

volume thing just goes to nothing at all. They just make deliveries when they are called upon to make them, that is all, and they make very small deliveries. I do not know how satisfactory the evidence is about that. I must not be going too far but I know. What I know may be just outside the evidence.

MR. NOLAN: As to what volume the commerical consumer takes?

MR. FRAWLEY: Yes. It may not be fair to state but I have been told by the managers of oil companies.

MR. COMMISSIONER LIPSETT: Is not the object of the refiner to keep the whole business of that particular consumer for himself?

MR. FRAWLEY: This is not for the refining end. It is the marketer. It is the marketing department.

MR. COMMISSIONER LIPSETT: Well, is not the reason Mr. Halverson will give a commercial consumer an account like that, is not the object to get the whole gallonage for the Imperial Oil?

MR. FRAWLEY: Well, that is fine but put Mr. Farmer on the same basis.

MR. NOLAN: Here is what Mr. Halverson says, at Volume 85, page 9758:

> "We have to give them the undivided dealers' price
> "because someone else would and we would lose the business
> "and that is the long and short of it. We would be quite
> "willing to adopt a policy to not extend undivided
> "dealer's prices to any one who did not have a minimum
> "number of trucks, providing it would work out in practice
> "competitively.

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"I believe that the man who operates quite a number of "trucks is going to continue to buy direct and it is "impossible to fix that man to buy it at retail. My own "feeling is that any firm that does not operate 5 or 10 "trucks should pay the posted tank wagon price."

MR. FRAWLEY: On page 9758:

"And who are those 127 consumers, what kind of people are they?

"A Wholesale organizations, fruit, groceries, hardware,

" plumbing, plumbers, contractors.

"Q Yes, road contractors. Now I think that should be

" discussed just briefly perhaps, you realize that there is,

" that that is a pretty contentious point, is it not,

" in the industry that the service station man, that the

" retailers complain pretty bitterly of the freedom with

" which you will supply gasoline to wholesale grocers,

" just as a type, at wholesale prices and what is your

" justification for that practice, Mr. Halverson?

"A To begin with, to the best of my knowledge there is not

" a great deal of complaint at the present time from the

" retailers. There are certain retailers who would

" like to have all the business going through them but

" the consumer who operates a fleet of trucks----

"Q What do you mean by a fleet, that is the point?

"A Well we will say three trucks.

"Q Or even two and I think I can give you some instances

" where the man with two units will go on your 100%

" dealer basis?

"A I am not defending, I am just explaining.

"Q Yes, quite?

"A Now they figure costs very carefully, the same as the

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" farmer figures costs, and we have to give them the
" undivided dealer prices because somebody else would
" and we would lose the business, that is the long and the
" short of it.
"Q That is somebody else like yourself, some other whole-
" sale distributor?
"A Practically any other oil company would do it because the
" consumer insists on the lowest price he can get.
"Q That does not advance us so far as the Commission is
" concerned because we will put the same question to the
" other marketers, as to what their justification of it
" is. Supposing you were alone, I quite see your point
" that if you stopped doing it and the North Star and
" the B. A. kept on-----
"A We would be quite willing to adopt a policy of not
" extending undivided dealers' prices to anyone who did
" not have a minimum number of trucks.
"Q Yes?
"A Providing it would work out in practice competitively.
"Q Yes, I used to wonder why you gave them the undivided
" dealers' price, it seemed to me, if I may say so,
" it is bad enough to give them the posted tank waggon
" price because after all if I were a wealthy man and had
" two or three cars, I would be in the same position as
" the wholesale grocer that has two units, two trucks,
" and would you give me the undivided dealer's prices?
"A I do not quite follow you.
"Q Would you give anybody, any consumer, the ordinary
" citizen with three or four cars or two cars, let us get
" down to two cars----

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"A No, we restrict it to commercial.

"Q You restrict it to commercial and now why, why not give

" the ordinary citizen the same rates as these wholesale

" grocers, where you put a tank in their backyard".

Now, I say who is a consumer and they answer with the magic word "commercial" consumer. Why? What is it all about? There is no rhyme or reason in it at all. They would not give it to me and they would not give it to Mr. Farmer. There is some magic in the fact he is in the wholesale grocery business.

THE CHAIRMAN: They will drive out 30 miles to the farmer but the commercial man has to come and get it, hasn't he?

MR. FRAWLEY: Oh no. Delivery is made to the commercial account. Just the same. The Swift Canadian, I suppose, is 6 miles from the Edmonton bulk plant of the Imperial.

MR. NOLAN: How far from the nearest dealer?

MR. FRAWLEY: I suppose you have some dealers out there. You have dealers on every corner.

MR. NOLAN: I thought they were all on Jasper Avenue.

MR. FRAWLEY: I venture to say the Imperial would make a straight delivery to the Swift Canadian alone. but that does not help I suppose.

MR. COMMISSIONER LIPSETT: I suppose the discount to the undivided dealer should be confined to the dealer and they should be men, it should be defined as a man who is buying it for the sale as distinct from the man buying for his own consumption.

MR. FRAWLEY: But they are not.

MR. COMMISSIONER LIPSETT: I say should that be the test?

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MR. FRAWLEY: Well, of course, I say that the only person who should get this price is the man who is in the business. The retailer. Now, then, if they depart from that, let us make them depart from it completely and let us stop all discrimination. Mr. Halverson does not think much of it. You read through his evidence and you get the idea very definitely that he does not think much about it at all. Let me read the next question.

MR. COMMISSIONER LIPSETT: Your point is if it is not confined to dealers alone, this dealer's discount, then there is discrimination as between customers?

MR. FRAWLEY: Surely as between different kinds of customers.

THE CHAIRMAN: One gets this impression, that this is one of the times that Mr. Halverson would be content that the fine and free competitive system be curbed.

MR. FRAWLEY: Yes, because he says - I asked him could I get it if I had two or three cars and he says

" No, we restrict it to commercial."

"Q You restrict it to commercial and now why, why not

" give the ordinary citizen the same rates as these

" wholesale grocers, where you put a tank in their

" backyard and give them the undivided 100% dealer price?

"A We do not put the tank in their yard. They put in

" their own tank and if we were not willing to supply

" them as an undivided dealer somebody else would and

" that is the reason, but I say so far as the policy is

" concerned if it were workable, we would be willing to

" restrict that undivided dealer price or even the posted

" price, we have no strong opinions upon it, providing

" it will work and the only way you are going to make it

" work is by regulation and that would mean one more
" regulation.
"Q One more regulation to be evaded, one more regulation
" to evade, because you know what it is doing now, Mr.
" Halverson, I do not want to dwell on it because I am
" interested in costs today, and if it is not going to
" help our cost feature it is just a wrong thing that
" will have to be cured some day?
"A I believe that the man who operates quite a number of
" trucks is going to continue buying direct.
"Q Oh yes?
"A I believe it is going to be impossible to force that
" man to buy at retail.
"Q Yes?
"A And the man who has only one or two trucks is not a
" big factor in the throughput of the average service
" station, not enough to warrant any drastic regulation
" which will be difficult to enforce."

THE CHAIRMAN: I do Mr. Halverson an injustice. He does not want to curb it because he thinks that it would not be or could not be enforced against all; that the men who evade it would suffer all the more. Well, I think we will take a short adjournment, Mr. Frawley.

(At this stage there was a short recess.)

MR. FRAWLEY: I think I have very little more to say with respect to the commercial consumer account. I might call to your attention what Mr. Meltabarger said.

MR. COMMISSIONER LIPSETT: You are not passing from this, are you?

MR. FRAWLEY: No, I have a few more words to say. Mr. Meltabarger says at Volume 102, page 11,515:

"Q Well, what do you think about the steel barrels, have
" you a submission to make to the Commission, whether or
" not that practice should continue?
"A Well we should like to see the consumer, the farmer,
" own his own equipment and the oil companies then deliver
" into that equipment."

Now, Mr. Halverson might have been talking about them purchasing their own equipment, but if that be so why not speak of him as a person who owns his own equipment and not as a farmer or a fisherman or a grocer or anyone else? It would just be this kind of a man who owned his own equipment. The railroad contractors, you know what happens to the railroad contractors now. There again I do not know how clear - perhaps somebody could point that out to me, does Mr. Halverson say in his evidence that these commercial consumer accounts, is he talking particularly of road contractors that they purchase their own equipment? It is too remarkable. It is too late in the day to talk about it but my information is that that just is not so. My information is that the road contractors who go out from the Department of Public Works to do a job that might last two or three months, they have to have this equipment. Do they pay for it? Not one cent do they pay for it. They enter into a contract and it is charged up to them but nothing is ever paid for it at all and then it is taken back by the company. It is a straight case of loaned equipment. If that appears in Mr. Halverson's evidence I say that is another case where Mr. Halverson perfectly, sincerely and bona fidedly says that the contractors buy equipment but, however, we have passed the stage of evidence.

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I do not know what the Commission will have to do about that if this thing becomes of sufficient importance. But my point is this, Mr. Meltabarger says he would like to see the farmers own their own equipment and the oil company make delivery into that. He does not say so but I am suggesting if the farmer did own his own equipment would he obtain from the oil company the same service and the same price as the urban consumer depending upon the distance? If the farmer was 20 miles out in the country then the question of transportation - and that is what Dr. Frey applied his mind to and he said frankly "I do not know that it can be wholly justified on the ground of transportation and I would like the Imperial Oil to make another statement about this for my enlightenment." I am not blaming altogether the Imperial but in any event that was not done and that evidence, so far as Dr. Frey's assistance is concerned, is rather unsatisfactory. Dr. Frey never made a statement after the Imperial had dealt at any length with the question of justifying the whole thing in terms of distance, in terms of transportation costs.

MR. COMMISSIONER LIPSETT: Before you pass from this, does the legislation that is in force in this Province, does it assist or affect this type of contract in any way? Do you remember we had some evidence about some station of Mr. Plotkins' being closed temporarily because he was selling to the consumer at two different prices?

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Is this in the body of that Statute at all?

MR. FRAWLEY: No, I do not think so. You see there is a regulation that says that sales at retail outlets must be at retail prices only, that is the substance of it.

MAJOR LIPSETT: It is limited to retail outlets?

MR. FRAWLEY: To retail outlets. The wholesale outlets, it says if you have a wholesale outlet you must sell at wholesale prices only and if you have a retail outlet you must sell at retail prices only and "retail price" is defined as being the going price which the retailer charges to his retail trade without any discount.

MAJOR LIPSETT: Are those not covered in the Statute?

MR. FRAWLEY: Not as such.

MAJOR LIPSETT: Or are they treated as wholesale outlets?

MR. FRAWLEY: No, they are not treated at all. They are just consumers. A wholesale grocer is just a customer of the oil company. He just gives the retailer the go-by.

MAJOR LIPSETT: Is he not a customer?

THE CHAIRMAN: The Commissioner suggests that if the Statute penalizes the person who sells, might it not penalize the person who buys, if one is prohibited, I suppose the other is.

MR. FRAWLEY: I do not know whether I have entirely got your point, but let me read the regulations and the definition,

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MAJOR LIPSETT: What was in my mind, Mr. Frawley, was that they are selling to this customer at a different price to what they are selling to other customers probably.

MR. FRAWLEY: Well they are selling to customers. You see 38 prohibits:

"No sale of fuel oil shall be made from or at a retail "outlet at less than retail prices."

and, "retail prices" is defined as:"

"Means the prices customarily charged by a licensed "retailer to his retail trade without rebate or discount "of any kind."

Now where Mr. Plotkins ran foul of the regulations was he had two or three retail prices which were not secret, I think he is right about that, openly he had two or three retail prices and thus it was said that that was a violation of the combined effects of this regulation and the definition of, "Retail prices".

Then it goes on:

"No sale of fuel oil shall be made from or at wholesale "premises at less than wholesale prices."

And then it says:

"no sale of fuel oil shall be made from or at wholesale "premises to the fuel tank of a motor vehicle by any "means whatever."

And then; "wholesale sale" is defined:

"Wholesale sale means the sale of fuel oil in quantities "of not less than 20 gallons for delivery at any one time "to be removed from the premises in containers at the "time of sale."

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Now there is a question whether this is a wholesale sale.

MAJOR LIPSETT: That is what I had in mind.

MR. FRAWLEY: Because it is not contained in containers. It is delivered from the tank to the underground storage compartment.

MAJOR LIPSETT: I suppose they say it is a wholesale sale at the lowest price.

MR. NOLAN: A retail sale is defined and a wholesale sale is defined.

MR. FRAWLEY: The retail sale means "a sale of fuel oil to the fuel tank of a motor vehicle through retail fuel oil vending pumps.", and the wholesale sale I have just read. Oh, it is not a retail sale.

MAJOR LIPSETT: Apparently the Legislature did not think then it was a matter which needed any control as to prices or anything. Apparently they did not bring it within the Statute at all.

MR. FRAWLEY: That is the conclusion that one is always able to draw from the reading of a Statute when one finds what I would call, a classus omissus perhaps.

MAJOR LIPSETT: I thought perhaps there was something.

THE CHAIRMAN: What are you reading from, Mr. Frawley?

MR. FRAWLEY: I was reading from the Fuel Oil Act, from the Regulations under the Fuel Oil Licensing Act, and you will find it among the various provincial Statutes in Exhibit "683" and so that you might find it I had perhaps better put it back where I found it and Exhibit "683" is the bundle of Provincial Statutes and it is also in Mr. Harvie's complete little black book.

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MR. HARVIE: Mr. Nolan's you mean.

MR. FRAWLEY: Mr. Nolan 's.

You see there is a situation in these commission-points which I thought was worthy of speaking about for a minute. In Red Deer, I think, there is just one commercial consumer account and that is the Red Deer Condensory and delivery is made to that Condensory into a tank of the Condensory. Now this Condensory is an agricultural operation. It is the outgrowth of an agricultural operation. Supposing that Condensory were, as it might very well be, 8 miles outside the City of Red Deer, out in the midst of the farmers who are marketing the goods which make up the business of the Condensory, supposing it were away out there, that Condensory would need the same sort of service, I would take it, they would need a tank and a pump, they would still want to be a commercial consumer account. Now where is the distinction? Where is the all important distinction between serving that Condensory within the four corners of the town of Red Deer and going out into the country 8 miles and giving them the same service.

I am told that Commissioner Lipsett's mine at Ardley was served by the Texas Company from quite a long distance into a tank, I suppose, or whatever there was there. That was from a little town out there, Delburne or something, and there is nothing wrong about it ----

MAJOR LIPSETT: I am afraid I cannot help you, Mr. Frawley. I went up there one day while this Commission was sitting and I found out that they had, without my knowing of it, put in a tank and I felt I would be more impersonal if I did not inquire into it while this Commission was going on.

MR. FRAWLEY: Supposing it was anybody's gasoline, it was quite all right and proper that they should give that service to a coal mine or to anybody else like that, but they stop when they come to the farmer.

MAJOR LIPSETT: I am not quite sure, Mr. Frawley, that that is quite correct. I think it is quite possible that the dealer there might deliver oil and bring back coal on his truck.

MR. FRAWLEY: That may be, I do not know, there may be all sorts of variations of it but there is no reason why a coal mine should not be classed as a commercial consumer and coal mines are necessarily out in the country and if we got down and made an examination to find out how coal mines were being supplied with gasoline, we would likely find that lots of them had pumps and tanks and were commercial consumers.

MAJOR LIPSETT: I do not think that is a very good example, Mr. Frawley, from your point of view, because I think there are a number of people who are supplied from that pump,, people who come there with trucks and so on.

MR. FRAWLEY: So it is really a retail outlet.

MAJOR LIPSETT: Yes, I do not think it is any way a good example that would carry you very far otherwise.

MR. FRAWLEY: No, but at least there is no reason why there should be any distinction between a coal mine or a Condensory or a wholesale grocer or a farmer. Now if a farmer, if I were a farmer ----

THE CHAIRMAN: Now granting that, what?

MR. FRAWLEY: Then let the farmer, let the farmer buy it at this 100% dealer price. Let him have the cent off. If he owns his own equipment;

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MAJOR LIPSETT: He has to purchase the equipment, it may be on time.

MR. FRAWLEY: Yes, the five-year plan is the usual scheme, I think, and he perhaps would not, as I say again, it is like some of my other suggestions, at least let this Commission lay down the principle that such service and such price should be available to the farmer who wants to buy his own equipment and that is all.

MAJOR LIPSETT: Would you go so far, Mr. Frawley, as, supposing it was the distance that the mine at Ardley is from Stettler where they get their supply, a farmer there may put in his own equipment and he may only want 10 gallons or 20 gallons of gasoline in the month, do you think that would be quite fair to force an oil company to make free delivery to him at the net undivided dealer's price.

MR. FRAWLEY: No, I think there should be a limitation on the volume. It is all topsy-turvy now, Mr. Commissioner. So long as you are in the City it does not seem to matter, you can get 50 gallons at a time as I understand.

MAJOR LIPSETT: You can see the reason for that because the tank truck goes out around the City to maybe a half a dozen places while it is making that delivery but it would be a different thing if you sent that tank truck out into the country ten or twenty miles to deliver 20 or 30 gallons of gasoline.

MR. FRAWLEY; That is quite true. He would have to rearrange his business, he would have to take more volume, no doubt about that, I mean the farmer would.

MAJOR LIPSETT: May the whole underlying principle behind it be this, that if there is a consumer who has sufficient

volume to make it worthwhile for the refinery to make these deliveries, that they are prepared to do it?

MR. FRAWLEY: No, you see competition has driven them to make these driblet deliveries of 50 gallons.

MAJOR LIPSETT: In the city.

MR. FRAWLEY: Yes, they do not mind doing that but they say, " At least we are not going outside the city".

MAJOR LIPSETT: Is that not because in the city it is competitively worthwhile to make that and competition compels them to do it, whereas if they go 10 miles out in the country it is not worthwhile to do it under competition or any other way and therefore they do not do it.

MR. FRAWLEY: I know. That may be so. I do not know ----

MAJOR LIPSETT: Would it be fair then for us to recommend that they should be forced to do it?

MR. FRAWLEY: Well, I abhor discrimination. I do not know what the difficulty is. Why, if the farmer wants to do it, I suppose the reason the oil companies are not much concerned about it is because there is not a farmer in this province yet, except Burns perhaps, who has put in a tank, who has gone into this tank and pumping operation.

MAJOR LIPSETT: But is it discrimination, that is what I mean, or is it not a sort of universal rule that where it is worthwhile to do it, that some company is prepared to do it and if it is not a paying proposition then nobody wants to do it. If the farmer, in other words, is not able to put up a proposition which is attractive enough, then nobody wants it. It is hardly discrimination if that is the real reason.

MR. FRAWLEY: Well, it is not what they hold out,

it is not what, the discrimination, if it exists at all, lies in the fact that they hold out that the small city man can get the benefit of the price, the 100% dealer price and to the country man they charge him a cent more. Now that is all. Now if, so long as he does not own his equipment, then what I am suggesting does not arise but if he owns his own equipment and came into the oil company and said, "I own my own equipment and I want delivery made to me at the 100% dealer price".

MR. HARVIE: Will he sign the 100% dealer contract?

MR. FRAWLEY: Sure, sign the 100% dealer contract just like the city man does.

MAJOR LIPSETT: Is it not then a question really whether it is worth the company's while to make that delivery. In fact, is it not quite like the mail order business, you buy something through the mail order business and you pay the carrying charge for it. If you buy a magazine and it comes through the mail you have to pay a cent extra to have it come through the mail.

MR. FRAWLEY: Well ----

MAJOR LIPSETT: Mr. Frawley, I am not trying to argue with you but I am trying to think out loud you know and get any help I can.

MR. FRAWLEY: Oh, quite. Mind you, I have only discussed this from one point of view and that is the comparison of the farmer with the city man. The other side of it, what it is doing to the retailer, is a totally different matter but that is much more complex because I am not prepared to say it should not go on so far as the retail man is concerned.

MAJOR LIPSETT: Would it involve something like

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this really, one could say that delivery within a mile of the agency would be free and delivery from one mile to say five miles something else and over five miles and up to 10 miles would be something extra still and something like that.

MR. FRAWLEY: If that applied in the city as well as in the country.

MAJOR LIPSETT: But they commence the first part practically by saying the delivery in the city is free.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: That is as far as they have gone but do you think it is a fair thing to argue from that that delivery equally should be free ten miles away?

MR. FRAWLEY: If it is 10 miles in the city, if they are going to deliver ten miles in the city why do they not deliver 10 miles in the country. I can not put it on any higher ground than that. I do not think the farmer should get any more advantage than the man in the city but if he owns his own equipment, that should be the test.

THE CHAIRMAN: But to deliver 10 miles in the city does not mean one delivery. There may be 10 places within that 10 miles.

MR. FRAWLEY: That is quite true, that is quite true but presumably he would, in making deliveries in the country, he presumably would have more than one farmer to deliver to and the one farmer who is using the company's barrels would pay the company's tank wagon price, but the odd farmer who happened to have his own equipment would have a cent off.

Well now I proceed to discuss the fourth question and that is "Montana Imports".

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THE CHAIRMAN: Do you propose to say anything about the class of people that we have heard a great deal of in the evidence before us and that is your retail service station man who is suffering by this commercial consumer business.

MR. FRAWLEY: Yes, well you see ---

THE CHAIRMAN: He is very seriously hurt.

MR. FRAWLEY: Yes, but then I am driven back to my underlying proposition. I do not want to give up anything which will tear down these restrictive bars. I want the full, free play of competition, I want them to work on the price leader and I do not want anything set up in the way of them and if it should be that the Gas & Oil Products can go into Edmonton ----

THE CHAIRMAN: Why not just as well as protect the farmer that you were speaking for a moment ago?

MR. FRAWLEY: I see a distinction there, whether there is one or not.

THE CHAIRMAN: If it advantages any oil company to do that with the farmer, they will do it, will they not, they are free to.

MR. FRAWLEY: Well that is true but I am only taking it from what Mr. Halverson says, "We do not do that".

THE CHAIRMAN: True, they do not do that but he has also told us of the things he is doing today because somebody else will do them.

MR. FRAWLEY: Mind you, my suggestion about the farmer and the urban consumer and the 100% price or delivery into his own equipment is not of any very great importance because

there are not any of those people in the province today, not one, I think. I have tried to find them and I do not think there is one. I think the Burns Company in Calgary is the nearest to it but their pump is not on the farm, it is half way down on the MacLeod trail but it is the nearest which I could find and that is why there is not much use of worrying too much about it. So far as the other effect it is having on the service station, that is very apparent and they do a lot of hollering about that.

MAJOR LIPSETT: I was going to say, Mr. Frawley, could it be argued that the present spread which the retailer charges to the general public and which has to be as high as it is at present is because he is deprived of this probably lucrative business of supplying the large commercial consumer.

MR. NOLAN: They say the volume is very small, compared to the total gallonage, that is in the evidence, the volume of the commercial consumer.

MR. FRAWLEY: It is small for the Imperial Oil, you mean.

MR. NOLAN: It is small for the industry.

MR. FRAWLEY: Quite, but it may be very big for the odd service station but I have a suggestion to meet that. I have a suggestion that the retailer should be allowed to have a separate price, he should be allowed to go out and bid against the oil companies for the business. That is the way for him to do.

MAJOR LIPSETT: How could he? They get it delivered at the undivided dealer's price.

MR. FRAWLEY: They will be willing perhaps to pay a cent more, Mr. Commissioner, because they could then go to

the service station and get a lot of other services. As it is now all they get is the gasoline, they have to have their own man operating the pump, they have no compression service, no tire and battery service and so on and the bid that the retailer should make to the wholesale grocer is, "I cannot give you the full 100% tank wagon price, my own price, naturally but I will give it to you for almost that."

MAJOR LIPSETT: You mean if he had to pay the tank wagon price, then the retailer possibly could, the undivided dealer could?

MR. FRAWLEY: No, you see, Mr. Commissioner, let the thing go on as it is now. The wholesale grocer can go to the Imperial Oil and buy it for the 100% dealer price but that is just the gasoline which goes into his tank and it is nothing but the gasoline. He has to do all the servicing himself and he has no pump service, I mean no tire pressure service, no battery service, nothing of that sort you see. Now if the retailer was allowed to go to the wholesale grocer and offer him a price, not the price that the retailer charges me, but something in between.

THE CHAIRMAN: Why is he not, Mr. Frawley?

MR. HARVIE: He is doing it all the time.

MR. FRAWLEY: I am frank to say that this Statute prevents him from doing that and in my humble submission this was a mistaken idea.

MR. HARVIE: Mr. Plotkins' evidence is that he does it all the time.

MR. FRAWLEY: Yes, he goes on and does it anyway. And he is not within the regulations, we all read them and if Mr. Plotkins is charging two prices now he is violating the

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regulations.

MR. HARVIE: That says "retail prices", it does not say "retail price".

MR. FRAWLEY: I will withdraw from the argument. I say now it is not altogether satisfactory that that regulation should stand that way and in my submission let there be a complete freedom to post one, two, three, four, five, six prices at the service station to different classes of customers and I say that, why, because that might have something to do with breaking dosn the competition or enlivening the competition of getting after the business of the wholesale grocer?

You see there is something in what Mr. Plotkins says, the Imperial Oil Company operates presumably an orthodox, the Imperial Oil Company's dealers operate an orthodox service station business. They have one price. Mr. Stevens went further and said frankly that if he operated a station he would have one price and that is why it was suggested to him we might get rid of some of this chiselling but frankly now, I regard the other approach as being far more important and let there not be one price, there is no magic in one price in the service stations so far as I am now concerned, seeking to impress upon this Commission the necessity of bearing down on the price leader and so I say, "Let there be as many service station prices as you will", a price for the casual motorist, a price for the doctor and the insurance agent that uses his car presumably in the prosecution of his profession.

Thirdly, a price for the wholesale grocer who, presumably, and the other wholesale truck operator who presumably uses a little more volume. Finally, a price if you like for the large transport truck who uses a lot of gasoline and has a huge 40 gallon or 50 gallon or 60 gallon tank attached to the car. Why do I say that? I say let that all be so that the service man can go out and get some of this business. I am frank to admit that this regulation is a bar. It was one more bar against free full play of competition. Mr. Plotkins objects to the Imperial Oil Company's credit cards. Let us have lots of credit cards. Let us have no bars at all because I now see the ramifications of this problem and we will never get any relief for the consumer until there is a.....

MR. NOLAN: Government Board.

MR. FRAWLEY: No. I am quite in the other realm entirely. There will never be any relief to the consumer until there has resulted from the full play of the competitive forces a roduction in the tank waggon price through the instrumentality of the one man who has anything to say about it, Mr. A. E. Halvorsen.

MR. COMMISSIONER LIPSETT: Well, Mr. Frawley, would that involve recommending some amendment to the Statute?

MR. FRAWLEY: Oh yes, I think it would. I would think you would have to do that. But it is the merest little thing. I mean I am not impressed very much. It is just something, frankly, you know, one should not boast, but it is just something Mr.Cottle and I myself put together one time when we dared to try to put some order and some

ethics into the marketing system. But we were doing it without any regard to the considerations that have emerged from this Commission. We were endeavouring to be orthodox. If we must stand guilty, why we must plead guilty to that.

MR. COMMISSIONER LIPSETT: I was only trying to get at your views as to what should be done to that.

MR. FRAWLEY: I do not know the detail or the technique of it. I think the principle there is that there must be no obstacles put in the way of the legitimate efforts, short of fraud and dishonesty of course, to get gallonage on the part of those people that are seeking gallonage, as against those who are defending their gallonage.

MR. COMMISSIONER LIPSETT: Would you limit that then or would you enforce that those retail outlets would have to post the prices that they would sell to these various classes at?

MR. FRAWLEY: Oh yes, post all the prices. They must post all their prices openly so that you can go into there and you can demand your price. You can say "I come within that third classification" or second or first or fifth or whatever it is.

MR. COMMISSIONER LIPSETT: Once you posted four prices, say 1 cent, 2 cents, 3 cents and 4 cents over the cost, for four various classes, do you think any retailer could stand up against the demand that if I were in class 3 and I would go and ask him to put me in class 2 and tell him if he would not do it I would go to the station next door?

MR. FRAWLEY: There would be a certain classification if you are operating a commercial vehicle. That is one thing, but if you were operating a Mercury

passenger car that is something else.

MR. COMMISSIONER LIPSETT: Don't you think pressure would be so great that the retailer would get down to a lower price?

MR. FRAWLEY: They would be all in different classifications. A passenger driver would not expect to get in under tractors.

THE CHAIRMAN: Do you think that is a classification that should be established by legislation? Or which the retailer should do?

MR. FRAWLEY: Mr. Plotkins is doing that. He is doing it very openly. If you are a doctor or a lawyer or an insurance agent or anyone who can send a little card to his company saying you use your car in the transaction of your business or profession, you get a certain price that is less than that I could get if I walked in to buy some gasoline.

MR. COMMISSIONER LIPSETT: Would it not mean that the whole thing would become disorganized because in addition to these four classes that each retailer would have to have a class of people whose pressure is too strong to withstand, and they would go to each one and get a better price?

MR. FRAWLEY: That is competition whereas I say Regulation 38 is probably a bar to competition. It is a bar to the full play of the competitive forces that these companies are so keen about. As far as I am concerned I want lots of that.

MR. COMMISSIONER LIPSETT: You say competition, but it must be such competition that every rival consumer will know all about it.

MR. FRAWLEY: Quite. I do not suppose Mr. Halvorsen when he was talking about the merits of the competitive system ever supposed I was going to say that is a thing which should be done in a service station, because he does not want any part of that Plotkins' system in his service station presumably. Therefore he won't adopt it. I say if there is anything in it let us have it. Let us not stop anybody from doing it. And one thing it does, it clears up or will tend to clear up the evil of the commercial consumer, because if you permit the retailer to go out and establish a special price for the wholesale grocer with a view to getting him away from the oil company, as such, well that is something. Well now, that is getting into the retail margin which I intend to discuss later on. Now I want to say a few words about the Montana situation. I say first we know that the infiltration of petroleum products from Montana has an effect upon the Southern Alberta price structure. We know that from the evidence. And it has that effect two ways. One, directly insofar as consumer imports and dealer imports by such dealers as Trimble, because those imports result in lower costs to the consumer. That is established. That is what the British American regarded as unfair competition, if you like. But I am not dealing with that for the moment. I am dealing with the effect of the imports. I say we know that they have an effect upon the Southern Alberta price structure. The farmer who imports or the farmer who buys from Trimble has a lower cost laid down on his farm.

Secondly, it has this effect, an indirect one, through the potential threat which the Texas imports are to the price leaders' gallonage.

I do not think there is any doubt about it at all that the Texas Company has this effect. It is a subtle effect. It is an effect which is only realized in the long swing but they have an effect on the price leaders' gallonage. Quality too, I think, has something to do with it. I do not think there is any queston about it, that notwithstanding the efforts of the British American, and they are certainly striving and I do not speak critically at all, but they will over a period iron out the difficulties and they will be making just as good gasoline as the Texas Company. I am speaking now of Sky Chief. I am speaking of the premium product, because from the evidence if one is taught anything from the specifications filed the Texas Company's Ethyl seems to be a superior product, on paper anyway, to the comparable product.....

MR. COMMISSIONER LIPSETT: In fact you might say both on paper and over the air.

MR. FRAWLEY: Yes, on paper and over the air.

MR. HARVIE: Over the air I think mostly.

MR. FRAWLEY: The Imperial, of course, is not to be regarded too critically because they are just very soon now getting into their new plant. Certainly great things are to be expected from them. I have no doubt both British American and the Imperial will be making as good gasoline as Sky Chief very shortly. And Mr. Mayland too. Now that is all right, but at the moment there certainly is gallonage going to the Texas Company because of the effect of advertising or the appeal that is being made to the consumer, the quality appeal that is being made to the

consumer. Now those are the two things, the direct effect on the price structure for those people who buy products in Southern Alberta and the indirect effect on the Imperial tank waggon prices because of the Texas Company's imports. I say the Texas Company's imports because they are the only ones who really reach through all Alberta. Those are two effects. Now the British American I think it must be admitted appear to have made out a case that the Alberta farmer is treated differently than his Montama counterpart. You will find Mr. Bostock's evidence on that point in Volume 123. I need not refer you to any particular page. It would mean spending too much time on something that is not sufficiently important. Mr. Harvie has probably covered it quite fully anyway. The Exhibit number is probably all you would like to look at. Those two sets of invoices, Montana Farmer and Alberta Farmer. Exhibit "627" (a), (b), (c) and (d), and I suggest that is all the British American Company has made out, the case that the Alberta consumer gets a little better of it from these Northern Montana refineries. But that is so small. I want to refer to the gallonage, to the comparable gallonage of these two kinds of imports. The Texas Company of Canada - yes, - they were about 13%, 12.95% of all of the 1936 gallonage sold was imported from Montana. 12.95 or about 13%. Now of that 12.95% 9.80% was imported by the Texas Company. 9.80 of 12.95 which leaves a balance, a very very small quantity imported by all the other dealers and the importers - all the other dealers and consumer importers. Now my submission is this, unless and until the largest importer - and that is the Texas Company - is shut off by more strict enforcement

of the Dominion regulations,if there be any violation, of course, that unless and until the largest importer is shut off, then the smaller dealer and farmer importer should not be harrassed.

In the nature of things the Taxas imports cannot be shut out, because it is fairly obvious that if it were rulei that the present invoice price of 6.25 cents was too low, the parent company would simply increase the invoice price and we would have the single net result of merely increasing the Alberta operating deficit.

So that it would be discrimination against the farmer consumer importer or against Trimble's customers to take from them in that way the price advantage which they now enjoy. Now that is simple and I am sure quite clear. If the Texas Company was to be shut off a wholly different consideration would arise. Then there might be something to talk about. But I say that the Texas Compay cannot , because as I see it it would be practically impossible to shut off the Texas Company. They could circumvent the customs regulations so easily, unless fresh regulations were made. But as the regulations now stand it seems to me they would only have to increase their invoice price and so avoid any question of dumping duty. But until that could be done then I say that the individual farmer importer and the customers who are buying from Trimble, should not be interfered with. And I point out that the effect on the consumption of Turner Valley crude to cut off the farmer importer only, the Texas Company not being able to be dealt with, would be just negligible. It would mean so little extra production in

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Turner Valley per day that it would be hardly worth while talking about. But the Texas production, that is something else entirely. Now I want to mention again that the Ethyl Corporation licencing policies have a restrictive effect. If this "Q" gasoline could be imported freely from Montana.....

THE CHAIRMAN: What have you to say about the.....you say if and when the Texas Company is put in a certain position, it will be time enough to deal with this. Well should it be there now, the Texas Company?

MR. FRAWLEY: Should they be stopped now? Well reviewing the evidence there, Mr. Chairman, the evidence shows that they bought at 6.25 cents. We do not know what they paid, what that same selling company, the Texas of Delaware, sold to other persons comparable. I think the evidence shows that they sold at the same price. That is what Mr. Meltabarger said. Mr. Meltabarger personally found out for us and told us that his Montana opposite number, the Montana marketing company comparable to Mr. Meltabarger here, paid 6¼ cents at the refinery. Now, of course, whether or not these inter-company transactions are the ones which should be used as a test I do not know. But frankly I was not troubling myself very much, to be very frank about it, Mr. Chairman, I was simply leaving that to the Dominion Government They have ways and means and they are down in New York now examining that in detail, to come to a conclusion whether that very same thing was right. Whether or not the 6¼ cents at which they were selling to Canada was a fair market value for home consumption. It is pretty

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difficult to be able ve y intelligently to comment upon that when we know so little about it. Mr. Russell came and you will recall his reaction was that he did not know. He just had to go and investigate it. He had to go to New York to look into it.

THE CHAIRMAN: My memory of the gist of his evidence was that they se. up anti-dumping laws which they did not enforce unless somebody makes enough noise so as to disturb the Department. If a competitor kicks.....

MR. FRAWLEY: Yes, they operate on complaints. They have not very close supervision. The Customs collector at the port just passes them by.

THE CHAIRMAN: The law is there but it is only to be enforced if it is asked to be, if there is a request for its enforcement.

MR. FRAWLEY: Yes, I think so. I think that is not an unfair way of putting it at all. I think that is the effect. This Commission might recommend to His Honour, the Lieutenant-Governor that His Honour in turn call to the attention of the Minister of National Revenue some of these things. You see we know that it is now presently before the Minister of National Revenue, perhaps largely thanks to this Commission.

THE CHAIRMAN: Without any doubt.

MR. FRAWLEY: As Mr. Cottle points out, as I have just said a moment ago, what difference would it be to the Texas Company. They would simply charge themselves 7¼ cents. That is all. And they would say "Very well, Mr. Dominion Government, our invoice price is 7¼ cents," and all that would do would be to add to the red ink in the Province of Alberta.

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THE CHAIRMAN: If they, to use your language, charged themselves some more as a subterfuge, that should not avail them with a body that is serious in enforcing its law?

MR. FRAWLEY: My answer to Mr. Cottle's suggestion is they could change the law. We are not going to be circumvented by any such subterfuge. That could be done, the regulation could be changed. I do not see that something should not be done if the Dominion Government put their minds to it. There are always two sides to a question. Is the Texas Company doing any good in this Province at all? Well I wonder it is not keepong Mr. Halverson keen on his toes and if it is let us have the Texas Company.

THE CHAIRMAN: I wonder if to be consistent you should not say that the Anti-dumping law should go, and let them in free.

MR. FRAWLEY: I think there is a happy medium. There is a plafe where a line has to be drawn. You cannot go the whole way for the producer and say " Never mind the consumer. Never mind the good effect of supplying competition." Of course, you see it is very intensive, and the producer might say to me "Well what good has the Texas Company done in this Province? What good has it done?" Of course, it is one of the subtleties and you would have to go back - well now, it would be almost incapable of defining the good which the Texas Company has done. You see this is how the whole Texas operation strikes me. Let us assume now only for the purposes of this discussion that they make better gasoline. But that is not good enough so far as the consumer is concerned. It does

not mean enough to him to put Texas gasoline in his car and go down the road and say "This is a better product than I am getting from the Imperial." It is too indefinable.as I would much rather buy the same gasoline from the Imperial and buy it at less. I would rather have the Texas Company giving us some real price competition. Price competition rather than quality competition. It is too indefinable. So that would be the producer's answer to me and he would probably be right and then he would probably say "How long have we got to wait uhtil the Texas Company - well they never will do it on their own, we need not expect price reduction from the Texas Company. That is as plain as it possibly can be, with the red ink they are now showing on their operations in Alberta. We cannot expect anything from them directly. All right. Indirectly. Indirectly they might bother Mr. Halvorsen. Now I have something to say about that when we come to try to measure the length of this long swing. It is pretty hopelessly long as far as I can make it out, from what the experience was in the third structure.

THE CHAIRMAN: I suppose the effect of the evidence is if a competitor is getting away enough business by means of advertising or producing a better product or anything else, in due course that will lower the price, because the person who may be able to command the price, or the person who has to meet that competitive situation, will lower the price and try to meet it if he cannot meet it in other ways.

MR. FRAWLEY: That is the only effective weapon he has, the witnesses tell us. Mr.Halvorsen

has only one weapon. No, he can start making Sky Chief gasoline.

THE CHAIRMAN: Unless he is making a better one already.

MR. FRAWLEY: That is true.

MR. COMMISSIONER LIPSETT: How would that work out? It is easy to see that there is very intense competition with Texas at the present moment but is it the type of competition that you would think is desirable in this Province? That the Texas Company should pick out the plum points, the best points and compete intensely there as against a company that is serving the whole Province? Might not the effect of that, while it looks very desirable at the first look, might not the effect of that be that the Imperial if they have to live at all, might have to put up the price in other parts of the Province where the Texas competition is not in existence and, a fortiori, that would apply in the case of competition like Trimble's.

MR. FRAWLEY: I am not going to give up. I have been driven to this position and I am not going to give up any one thing that will work on Mr. Halvorsen who is the price leader. I cannot fix the price. That seems to me just the difficulty. I cannot take a cost plus price, cost plus a margin as I once thought, and fix it and say to Mr. Halvorsen "Meet that." So I have to go at him another way.

MR. COMMISSIONER LIPSETT: I appreciate that, Mr.Frawley, very much, but might we not, accepting that view, be driving Mr. Halvorsen to a position where he will have to have one price for Calgary and wherever the Texas is, and a considerably higher price at points where Texas

and Trimble are not.

MR. FRAWLEY: The Texas has a pretty comprehonsive distribution all over Alberta, except in the Peace River. They are in Edmonton, Jasper, Camrose, they are pretty well distributed here and there.

THE CHAIRMAN: Where there is a fair population.

MR. FRAWLEY: Yes, just at places where they hit the Imperial probably on gallonage.

MR. NOLAN: They have 17 outlets in the Province. That is very fair. That is one for each electoral district.

MR. FRAWLEY: Let us see where they are. They are pretty widespread of course. If that is unfair competition, if that is buying business as I once thought it was, it is pretty difficult. It is pretty difficult this Texas competition for the Imperial. Apparently with a limitless amount of money to bring up to this Province and operate an industry, build stations all over the place, remodel others, face lifting as Dr. Frey calls it, an extensive radio program and good quality gasoline. All these things - well they should have no difficulty with the quality of gasoline, that should not bother them - but it is pretty difficult to meet that competition. But Mr. Halvorsen never whimpers about that. That is all right. He will meet the Texas competition in his stride, if I may be allowed to say so. He does not want me fixing the price or having anything to do with it. So I have to play Mr. Halvorsen's own game with him and give him lots of competition, and to see there are no bars to competition.

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MR. COMMISSIONER LIPSETT: Will there be some advantage if the Government takes a hand for instance, and made it a condition of the licence that it would be disclosed to the public that certain gasolines were imported as distinct from gasolines manufactured from Alberta crude oil?

MR. FRAWLEY: Well suppose we go the whole limit and have the Dominion Government shut it off, put an embargo on it.

MR. COMMISSIONER LIPSETT: We cannot make a recommendation, I suppose? except indirectly to the Dominion Government.

MR. FRAWLEY: Yes. But we would not want that. As I presently see what we are faced with, it is very difficult to take away, just to take away the Texas competition from Mr. Halvorsen. I think he would slow up too much. The long swing would lengthen out.

MR. COMMISSIONER LIPSETT: Supposing that competition was able to be intensified to the extent that the Imperial or British American could not continue to operate in this Province, would you think that would be a desirable result?

MR. FRAWLEY: Oh no. Now we are getting to the point where we have the Commission to come in to have the Government put a minimum price, or take a hand in it. My whole premise is on the basic proposition that the price of gasoline can well come down in Alberta.

THE CHAIRMAN: Well.....

(At this stage the Hearing was adjourned until 10:00 A.M.. December 28th, 1939).

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J. W. FRAWLEY

The Province of Alberta

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IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta DECEMBER 28th, 1939

VOLUME 157

FINAL ARGUMENT

BOX 84

THE CHAIRMAN: All right, Mr. Frawley.

MR. FRAWLEY: Now Mr. Chairman, I think I had said just about all I had intended to say about the subject of Montana importations and Southern Alberta.

I was very frankly approaching it entirely from the same point of view that I had been approaching all of these subjects and that is consistent with not ruining the Alberta oil industry but facing the facts as we have them and the principal fact being the continuation of the Texas Company's importations; that being the outstanding fact and one seemingly that cannot easily be disposed of, notwithstanding the efforts of the Department of National Revenue in that we know nothing about what they are doing but it would seem to be a very simple matter because it has been some time now since Mr. Russell left and if the Texas imports were to be found fault with, one would think that would have been done some time since and then of course there is the other aspect of the Texas imports that, even assuming the Department of National Revenue finds that there was a violation of the Anti-Dumping Regulations now, surely all that would be necessary,-without some fresh legislation which means another session of Parliament,-all that would be needed to be done would seem to be to increase the invoice price to the Canadian subsidiary so my premise, the beginning of my discussion of Southern Alberta is all premised upon that fact, the fact that the Texas Company

does continue, so I say that being the fact then there should not be any interference with the smaller individual importer; first of all because it would seem to be discrimination but beyond that,-and that is not very important to this Commission because if the Dominion Government felt that the individual importers were violating the Customs Regulations, presumably they would be stopped in any event but it would seem to be not quite fair when one looks at the smallness of the imports compared with the Texas imports which seemingly have to be faced, but as you put it to me yesterday, Mr. Chairman, to be consistent, I would say that more and more gasoline should come in because it affords competition to the price leader, but of course it would be much, much better, much better for everybody, every one, including the oil industry, if the Texas Company, still carrying on their aggressive sales campaign, were using Alberta crude oil; but still carrying on their campaign of advertising, still making what is rather accepted as being a good gasoline, a very good gasoline, they could have just as much effect on the price leader without the annoyance of having foreign gaso ine com ng in, every gallon of which displaces, undoubtedly displaces Alberta production. Now I think there is no inconsistency about my position. I accept the Texas Company's position as I find it----

THE CHAIRMAN: I do not know just what is your position, would you, if you could, remove the dumping laws, the Anti-Dumping Laws, and let all gasoline from Montana that could find its way in here without artificial

barriers of any kind, come in.

MR. FRAWLEY: No.

THE CHAIRMAN: To provide competition.

MR. FRAWLEY: No I would not. Definitely I would not and if I were inconsistent in my submissions on that, I would stand inconsistent, I would prefer to be inconsistent in that respect and if I could do it I would shut off the Montana gasoline and that would force the Texas Company which is now getting its feet into the marketing, the Alberta marketing picture and it would be good business, and it would seem to me it would warrant me in saying that they would have to go, then go ,to an Alberta refinery and make an arrangement and have their gasoline refined, so as between the two positions I very frankly choose the one which would exclude the foreign product definitely but accepting that as I find it, then I think I am entitled to premise certain submissions upon that and I say that the Texas Company is giving the price leader something to concern himself about. It is the long swing and I do not look for anything very, very soon, subject to what my regulatory commission might do. I do not look for anything very soon from the mere existence of the Texas Company in this Province. It is difficult to say though, it is difficult to say and to you I would say----

THE CHAIRMAN: If that is the primary consideration, to keep Mr. Halverson alive, as you say, and the need for reducing the price of gasoline to the consumer, I wonder why you want all the Montana gasoline in here.

MR. FRAWLEY: Because I am then faced with

two,-I am very frank about it, I am faced with two public needs in this Province, two public needs, if I may use the expression, good for the consumer and the need for the development of the oil industry which industry will develop I think if it gets more demand for its products. It is healthy, it would be a healthy condition I think, it would be a healthy condition I think for the Alberta industry if no Montana gasoline or Montana crude came into this Province-----

THE CHAIRMAN: That certainly would be good for the producers.

MR. FRAWLEY: Yes. Now up to that point----

THE CHAIRMAN: But that definitely interferes with your theory in connection with reducing the price to consumers by letting competition have its fullest possible sway.

MR. FRAWLEY: That is quite right, and I am not making any apology for that. If that is inconsistent, I cannot afford to turn my back entirely on this industry of mine because I represent the people of Alberta, all the people of Alberta I hope and I am primarily concerned, not primarily but I am largely concerned, largely concerned with the price of gasoline. One must remember, one must remember perhaps, it is true, it was enlarged and did become an all-embracing inquiry, this inquiry did, but one must remember it began entirely as a spread inquiry, a spread, an inquiry as to what lies in between the price of crude and the price of gasoline. One might have argued from that that the mover of the resolution and the legislature in passing the resolution

was content with the price of crude and wanted the Commission to inquire into the spread only. However, his Honor the Lieutenant-Governor's Commission was a very broad one and it was a proper thing that it should have been, a very useful and advantageous enlargement of the resolution because now his Honor the Lieutenant-Governor-in-Council is going to have a report on all aspects of the oil industry but I am merely saying in passing----

THE CHAIRMAN: I can quite conceive here, I do not just want to seem to be pointing out inconsistencies, I can quite conceive of you saying "There is a middle course", well, if that is your point----

MR. FRAWLEY: Up to a point, yes, quite so.

THE CHAIRMAN: Then what is that middle course you suggest.

MR. FRAWLEY: May I say this, if it is not too much of a generality, I do not think that the Alberta motorists as such should promote the Alberta industry, should be the only persons who provide the sinews for the development of the oil industry and the finding of crude oil for instance. I think that is a matter of Provincial policy, Provincial-wide policy, it goes into the whole Provincial economics and I think everybody is interested in the promotion of the oil industry and the finidng of new oil fields and in the wise and sane development of the markets for the products of the existing oil fields. I think that is the business of every citizen in Alberta but I think, accepting that, accepting the need for the encouragement of that

industry, a very great need for the help of that industry,- and if I may be so bold as to say, I think it is getting a great deal of encouragement from the citizens at large, and the Provincial Government but consistent with all that, it seems to me that I am entitled,-and I feel indeed it is my duty,-to point out all the ways and means lying in that proper range, whereby the price of gasoline can be reduced, whereby competition can be made more keen and only, only as part of that general submission, do I say what I have said, and do say now about the Texas Company, it is an existing fact, it happens to be Montana, it would be much better if it were Alberta crude they were using----

THE CHAIRMAN: You want competition consistent with a continued sane and steady development of Turner Valley.

MR. FRAWLEY: No question about that.

THE CHAIRMAN: That is your submission no doubt.

MR. FRAWLEY: That is precisely it, that is fundamental in all my submissions.

THE CHAIRMAN: Now is it not right to say that what you have been saying to us yesterday would resolve itself into this, that you want a reduction in the price of gasoline to the consumer consistent with those who control that price being able to obtain a fair return upon the money which they have invested in the industry.

MR. FRAWLEY: Oh quite, naturally so.

MR. NOLAN: 6%.

MR. FRAWLEY: And I do not seek to do

ahy harm, and I do not see now what my friend means when he says I suggested this industry should function on 6%. I did not! I said it shbuld function on 10%, that is what I said and no more. You are quite right, Mr. Chairman, I say that none of my submissions go the length of risking for one moment the capital which the Imperial Oil has invested in this Province, not at all, and I am sure the Commission has, and I trust the reading public of Alberta and all of its citizens have an appreciation of that responsibility and that goes for my friend's clients, Mr. Nolan's clients and Mr. Harvie's clients and every unit in the industry, no question about that ,but I think that an intelligent observation of this industry, a close and intelligent observation of this industry, a study of their costs from period to period, and that is one of the things I will submit is the function of the board which I intend to submit should be recommended, I suggest that such a study will probably result in paring down some of those costs in Exhibit, whatever it is, the million and some hundred thousand dollars, here it is right here, I think that is a very important thing, Exhibit "659" I think it is----

THE CHAIRMAN: Mr. Frawley.

MR. FRAWLEY: Yes, Mr. Chairman.

THE CHAIRMAN: This may be taking you out of what you are immediately on but you just mentioned, as the result of some aside between Counsel, that you thought that a 10% return was enough for Mr. Nolan's client or for any other unit in the industry. We had a division in connection with the returns to the company

alluded to.

MR. FRAWLEY: You say we had something from the company?

THE CHAIRMAN: We had a division in their activities.

MR. FRAWLEY: Oh yes.

THE CHAIRMAN: The company alluded to in the first instance, the Imperial, that is as a marketer and a refiner.

MR. FRAWLEY: Yes.

THE CHAIRMAN: We found, and I never seem to have the notes I want with me, but you did tell us that the marketing return was----

MR. FRAWLEY: Well it was 10.57% as we originally constructed our notes but the reductions of July and October 1939, and then taking, applying those as you know to the 1938 costs----

THE CHAIRMAN: Yes.

MR. FRAWLEY: Reduced the rate of return from 10.57% to 7.56%.

THE CHAIRMAN: Now that you say is the net return on the capital invested in connection with marketing.

MR. FRAWLEY: The proper way of putting it perhaps is----

MR. COTTLE: Based on today's prices and the 1938 volume and the costs experienced.

THE CHAIRMAN: Today's.

MR. COTTLE: Today's prices, the 1938 volume and the 1938 costs' experience.

MR. FRAWLEY: I think it is important to keep that in mind, it is today's prices, today's realization, treating it on today's prices and the 1938 costs and profits performance.

MAJOR LIPSETT: And volume.

MR. FRAWLEY: And volume. It is a sort of superimposition, well that is exactly what it is, it is superimposing on the 1938 actual figures the 1939 prices.

MR. COTTLE: Today's prices.

MR. FRAWLEY: Today's prices.

THE CHAIRMAN: Yes. Now that is 7.56%.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now would you mind telling me again the refining.

MR. FRAWLEY: The refining as appears from Exhibit "732", the folder of Dr. Brown's Exhibits, is 12.68%; that is the actual 1938, 12.68%, 12.68%, that is excluding the 1.7% which they made on the B. A.'s run.

THE CHAIRMAN: Now that takes into account, Mr. Cottle, what we all agreed, I think, that they must absorb 2½¢.

MR. COTTLE: No, that does not take into account the absorption. There will have to be a change made for that.

THE CHAIRMAN: Now let us get this finally if it will not take too long.

MR. NOLAN: The reason they did not take the 2½¢ in was that that was historical, that was

the 1938 operation but all the others you did take in.

THE CHAIRMAN: Yes, but we can come more nearly to the actual if we take it all, couldn't we, Mr. Cottle?

MR. COTTLE: Yes, that is quite right. In Mr. Frawley's argument he used sheet No. 4 in Exhibit "732" which is the estimated 1940 operation of the new plant.

THE CHAIRMAN: Now would it be difficult to do that.

MR. COTTLE: No, not at all.

THE CHAIRMAN: Well will it take very long.

MR. COTTLE: No, it will not take long either.

THE CHAIRMAN: If we allowed you 10 minutes to do it, would that be sufficient.

MR. COTTLE: Yes, Mr. Frawley can carry on and I will do it in five or ten minutes and come right up again.

THE CHAIRMAN: I think we had better have it. I want to ask about this before we go on if I can. I think we will just wait, if you do not mind, Mr. Cottle.

MR. COTTLE: Yes.

(An adjournment of five minutes was here taken).

J. J. Frawley, K. C.

MR. COTTLE: I have made a computation, Sir, on Exhibit "666". We find the total throughput of crude in the refinery of approximately 1,900,000 barrels in the year 1938. 2½ cents a barrel on that throughput amounts to $47,500.00. That represents an increase in the cost of crude at the refinery of $47,500.00. That would reduce the earnings shown on the Exhibit by $47,500.00, but would save the income tax of 22%, which is $10,450.00, thus reducing the net earnings by $37,050.00. That reduction represents 1.25% on the return on the total capital employed in that year of $2,976,000.00 and reduces the 12.68% to 11.43%.

MR. COMMISSIONER LIPSETT: What are the last two percentages?

MR. COTTLE: 12.68%, which was the actual performance, would have been reduced by 1.25%, reducing it to 11.43%.

THE CHAIRMAN: Now, Mr. Frawley, the reason I wanted to arrive at this at this time was I want to understand if I can why you say 10% for this company is not unreasonable; and how it is that you can disassociate its marketing and its refining and say 7.56 is all right, but I forget that, and we come to its marketing and 11.43 is too high. Now, I am not unmindful that Dr. Brown gives a different rate of return in connection with different matters in connection with refining, something I, perhaps, do not fully understand. I understand it in that it is to be expected that different parts of the machine, if I may so speak of it, will earn less money than others. But from the standpoint of the return on the capital that the investor has put in it strikes me there is one rate of return. He has got so much of his money. For every $100.00 he has put

in he has got so much back. Now if we think of this company as an entity, as we should think of it surely, it is both a refiner and marketer, and to what extent does its profit exceed 10%, if any?

MR. FRAWLEY: My answer to that is I have always understood from Mr. Cottle in his calculations and Dr. Brown's, is they have segregated the operations and they do not permit - I want Mr. Cottle to correct me if I am wrong - they do not permit of adding the rate of return on marketing and the rate of return on refining. I understood those were two separate things.

THE CHAIRMAN: Perhaps not. But if you as an individual have put up all the capital employed in the performance and the functions of this company, namely, those of refiners and marketers.

MR. FRAWLEY: It would not matter to me-----

THE CHAIRMAN: You would certainly have somebody show you what you got back on your money. You would not be content to be told "Now, we cannot mix marketing and refining."

MR. FRAWLEY: I will go further than that.

THE CHAIRMAN: Surely this all means something that the person who is putting up the capital did get something back on his money. And how much?

MR. FRAWLEY: We know that. We can go back to the financial returns filed by the company and we do know that they got 5.43% on their total operations in Canada. That is exclusive of the South American business.

THE CHAIRMAN: But we do not know what they got in Alberta.

MR. FRAWLEY: Oh no, we do not know what the comparable figure to 5.43 is for its Alberta operations. Mr. Tanner expressed the opinion that they show a net earning of 5.43% on their operations in this country, Canadian.

THE CHAIRMAN: That is what I wanted to follow up and find out if I can, on what principle do we proceed to say that they are getting more than that you say is right, namely 10%?

MR. FRAWLEY: Yes, I see the difficulty.

THE CHAIRMAN: As a Commission we have got to function fairly and justly. If one accepted the view that a company of this kind, with the hazards that are associated with its business, that nobody disputes, is entitled to 10%, which I gather you definitely do not dispute, and we do not know that it is even earning 10%, what is our premise to start from to see how we can cut them down. That is why I interrupted, to get that thought worked out if we could.

MR. FRAWLEY: I do not know that I can give you any answer at the moment. I would like to study that more. We were proceeding to show the results of the segregation of refining from marketing. We have said they made 11% in marketing. We were taking the 1940 and saying 15% they will make on refining, and we think that is too much of a difference, between that and 10%.

THE CHAIRMAN: As I gather now, taking the evidence that is available to him, Mr. Cottle has arrived at the result of 11.42.

MR. COTTLE: On a point which no longer exists.

MR. FRAWLEY: That is why we said you should not take that at all.

THE CHAIRMAN: As I understand it, Mr. Cottle, as an accountant, you are using your best judgment to arrive at what various estimates you can for the ------

MR. FRAWLEY: The 1938 operation.

THE CHAIRMAN: No, you have taken the 1938 volume, cost experience, but you have taken to-day's prices, haven't you?

MR. COTTLE: Yes, the reason being to show what returns to-day's prices would give. Now, had there been no changes in price since the 1st of January, 1938, we would simply have taken their actual performance in 1938.

THE CHAIRMAN: Quite so, but as far as an accountant can you are looking into the future, or the immediate past rather?

MR. COTTLE: No, not looking into the future. We are looking into the past but we are amending this so that it makes an intelligent, gives us intelligent information in relation to the prices as we see them to-day. It is in no sense an estimate of anything to be done in the future.

MR. COMMISSIONER LIPSETT: Your estimate of what is going to happen in the future is based on page 4 of Mr. Frawley's summary?

MR. COTTLE: Yes, and that was the reason for having Dr. Brown go into all these operations.

MR. COMMISSIONER LIPSETT: And that figure you arrived at after allowing for the 2½ cents on that page 4 is 14.19?

MR. FRAWLEY: That is right. You see, Mr. Chairman, we seem to have been agreed among ourselves entirely, it is for the Commission to say finally, but we agreed among ourselves, and I think Dr. Brown joined with us,

that it was not right to take a plant that was gone, in part even physically gone, or in a large part gone, and say to His Honour, the Lieutenant-Governor-in-Council on the 1st of February, 1940, that the price of gasoline should be so-and-so because in 1938, purely on the historical profit performance of the company, it was 11.43%. We thought that was not quite good enough and we must take a little credit for it because the suggestion came from yourself: Now is that good enough to take the historical performance? So acting on your suggestion, Dr. Brown made this estimate and I have selected estimate No. 4 as seeming to be the most reasonable one, because it involves only one estimate by Dr. Brown. It is Mr. McCloskey's figures in every other respect. It is the Imperial Oil in every other respect except one.

THE CHAIRMAN: I go very slowly in this accounting business, and it is no use you talking about something I do not understand at least for my purposes. Just precisely what is this 11.43. Let us have that explained in simple language.

MR. FRAWLEY: Let me put it to you just in a few figures. The total profit made by the Imperial Oil Limited in 1938---well, I can come immediately to it and make it more simple.

THE CHAIRMAN: I do not care about how the calculation is made. It is the 1938 historical performance.

MR. FRAWLEY: Just as it was.

THE CHAIRMAN: You have applied to-day's prices to it?

MR. FRAWLEY: To-day's prices to it.

THE CHAIRMAN: To this volume?

MR. COTTLE: No, the 1938 volume and to-morrow's

crude cost.

MR. FRAWLEY: Now, you have it. Mr. Cottle adds that to to-morrow's crude cost, not to-day's crude cost.

THE CHAIRMAN: All right, I think I understand that. Now then, have we any reason to anticipate, and if so why, that there will be more earned in 1940?

MR. FRAWLEY: Then we go straight away to Dr. Brown's estimate No. 4. The yields are different, the whole performance is a different one. There is new capital. There are new yields from the crude because of the new processing arrangement. A new physical set-up. There is new volume. That is an estimate but only the last is an estimate. It is all actual insofar as the money they will spend next year.

THE CHAIRMAN: A lot more capital?

MR. FRAWLEY: Lots more capital. All that is taken into account.

THE CHAIRMAN: A different number of barrels?

MR. FRAWLEY: A larger number of barrels.

THE CHAIRMAN: How does he justify that?

MR. FRAWLEY: Of course, you see that is the only exception which Mr. Nolan took to his whole evidence for the very good reason that everything else was handed to him by Mr. Nolan's client. Mr. Nolan quarrelled a bit with the 5500 barrels. I think Mr. Nolan did not quarrel as much as he might have quarrelled a year ago, because his favourable experience with the pipe line throughput has led him to be much more cautious in his criticism of people who estimate their performance for the coming year.

MR. NOLAN: Mr. Chairman, I am no better

prophet to-day than I was a year ago. I cannot tell to-day what is going to happen in 1940 any more than I could a year ago tell you what would happen in 1939.

MR. FRAWLEY: You see, we can, that is just the point. We were pretty good prophets in the early Winter of 1939.

MR. NOLAN: And I hope your prophecies will carry on for the next fifteen years, 6,000,000 barrels a year.

MR. FRAWLEY: Trust to us, we will look after you. I say Dr. Brown has taken 5500 barrels. You say why. Well, he says there is an increase and I showed you my Exhibit----

THE CHAIRMAN: What did we take on the pipe line, 6,000,000 barrels?

MR. FRAWLEY: 6,000,000 barrels per annum, yes.

MR. HARVIE: Which is an increase of what, about 18 or 20%?

MR. NOLAN: The difference was between 4750 and 5500 barrels, but Mr. Frawley said something that I have no knowledge of and, perhaps, he has not either. It might be right that the 5500 came from the Imperial Oil.

MR. FRAWLEY: Yes, there is that about it. We must not lose sight of that. We were both speculating. We were talking about that outside the court room the other day. Dr. Brown did not say where he got the 5500. It might be that Mr. McCloskey said by way of an estimate "Well, perhaps that throughput will be 5500 instead of 4750".

MR. HARVIE: I think Dr. Brown made that clear it was his estimate, 5500.

MR. NOLAN: That is right. But Mr. Frawley pointed out he had talked to the Imperial Oil officials and

what was said between them I am sorry I do not know, and he never told you, did he?

MR. FRAWLEY: No, he never cleared up that particular point. We thought of asking him but then---- well, we will if you like, if it will add to your knowledge to know that it was Mr. McCloskey's estimate or guess as to the 1940 throughput.

MR. HARVIE: I think it is only fair to point out on that that there is evidence showing what the normal increase over the years gone by has been year by year, and that this estimated increase is from 4750 to 5500 barrels and is roughly 18%, which is about double what the normal increase is.

THE CHAIRMAN: Whatever we can estimate, we can always have Mr. Cottle make calculations for us. But what I was wanting to arrive at now is somethihg that Mr. Frawley can address himself to. Now, in arriving at that 14.19 in estimate No. 4, at least page 4.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Of Exhibit-----

MR. FRAWLEY: "732".

THE CHAIRMAN: Did you deduct this 2½ cents, Mr. Cottle?

MR. COTTLE: Yes. And for your information, Sir, if you will refer to page 3, we have Dr. Brown's estimate of the new plant operating to produce the same amount of gasoline as actually was produced in the year 1938. It is 11.42, strangely enough, within 1/100 of 1% of the actual performance.

MR. COMMISSIONER LIPSETT: That is 11.42 with the 2½ cents?

MR. FRAWLEY: Yes, 12.14 becomes 11.42.

THE CHAIRMAN: And how much gasoline?

MR. COTTLE: That is running 4750 barrels per day, which, with the new plant is sufficient crude to produce the same amount of white goods as were produced in 1938. That is taking the new plant and putting it back into 1938; substituting it for the actual performance in 1938.

THE CHAIRMAN: Now, we were getting from the Conservation Board the performance in 1939, weren't we?

MR. FRAWLEY: I think from Mr. Nolan. Well, from either source, it does not matter.

THE CHAIRMAN: There was something the Conservation Board was to get and everybody was agreed it should be filed. What was that?

MR. COTTLE: That was the total throughput from the various refineries for the year, and we are going to file that at the end of the year.

MR. FRAWLEY: And then I also suggested you could get the gasoline figures too, to show how the business has been increased in 1939, Because, you remember Dr. Brown's estimates jumped the year 1939. He goes from 1938 to 1940. When he raises it from 4750 to 5500 he is jumping two years, really.

THE CHAIRMAN: There is a striking difference, is there not, between 4750 and 5500?

MR. COTTLE: The throughput is the biggest factor in cost performance in the refinery. That is an 18% increase in throughput.

MR. FRAWLEY: I think when we know Mr. Moore's 1939 run we will be just in that much better position to know.

I do not know what it is.

THE CHAIRMAN: We will no doubt have that. At any rate, Mr. Frawley, to come back to what we were talking about while you have been talking to us the difficulty has been ever present in my mind, just assuming now we were prepared at all to consider the question of rate of return, fixed arbitrarily and other than by competition.

MR. FRAWLEY: Yes.

THE CHAIRMAN: In the competitive world. Assume we were prepared to go along with you, to which I certainly express no opinion, what basis have we? What basis have you for saying that that is what you yourself conceive would probably not he unreasonable for us to accept as the rate of return has been earned, much less more than earned by this company?

MR. FRAWLEY: I can see the infirmities in the position. It is only a circumstance that the Royalite Company is the producing department of the Imperial. Supposing the Imperial had its own producing department, I as an investor would not care whether they made it all out of production and lost out on refining and marketing. Of course, there is that.

THE CHAIRMAN: You see, in regard to a company that you would think right to examine from the standpoint of a utility , for example, you would say "Now, is that company making undue profits, excess profits to which the public should not be subjected"? You would be interested in that if you were dealing with a utility, or if you were examining any company from a utility board's standpoint, shall I say?

MR. FRAWLEY: Yes.

THE CHAIRMAN: But here, assuming we were willing to go with you and lending a ready ear to everything you say, what basic foundation have we. That has been bothering me throughout.

MR. FRAWLEY: We thought it our duty-----

THE CHAIRMAN: Can our accountant show us this company is making more than is right for them to make?

MR. FRAWLEY: In marketing and refining?

THE CHAIRMAN: Yes, because, after all, I do not know why, unless you can point to me a good reason why, we should sever their operations.

MR. FRAWLEY: We had to sever their operations.

THE CHAIRMAN: For the purposes of accounting?

MR. FRAWLEY: For the purposes of telling the Commission what they were doing. I want this Commission to know all they are doing in refining and marketing.

THE CHAIRMAN: I follow that perfectly and you have provided us with much knowledge, which we hope is not entirely useless. I would be sorry to think that because you might fail to break down somebody's price that you had not accomplished great good by the information that you have brought to light.

MR. FRAWLEY: Yes, you see we had to do that.

THE CHAIRMAN: And that being done, and being useful for whatever purposes it might be, I want to know now, and to come squarely to the point of a reduction in the cost of gasoline to the public. If you grant them a definite rate of return and it is not established that they are getting even that much, on what principle of equity can you say that the consumer must get more advantage than he presently enjoys?

MR. FRAWLEY: I will discuss this with Mr. Cottle.

I do not know whether you can add the 7.56 to the 11.something and divide up the two. I do not know. I will have to discuss that with Mr. Cottle.

THE CHAIRMAN: Since we have been interested in your argument, we are interested in seeing its logical development.

MR. FRAWLEY: I will be as frank as possible in saying that there is just nothing to it if that is the conclusion. I am not clinging to any fantastic argument here to get the price of gasoline down. But you see, Mr. Halverson does not buy the gasoline and pay for it, so the very basic foundation of all our work was to make Mr. Halverson a purchaser at the refinery door. So we had to segregate these two operations completely, and it has been done.

THE CHAIRMAN: Then you come back, as you must surely, and you say "All right for our purposes in calculation, for our purposes in ascertaining the facts concerning the two separate operations we have had to do certain things, and we have done them, and we have gotten a lot of information," as I say I hope of some value concerning each operation. But after that being all done then approaching it from the standpoint that you advocate of a fair rate of return haven't we got to once more put them back in their place?

MR. FRAWLEY: You see, the Imperial refinery as such makes a profit, a net profit of .66 cents on every gallon that they sell.

MR. COTTLE: To the jobbers.

MR. FRAWLEY: Well, that they sell.

THE CHAIRMAN: Well, perhaps, you would rather come back to it again.

MR. FRAWLEY: Oh yes, I have to.

THE CHAIRMAN: And go on with whatever you were speaking about.

MR. FRAWLEY: It would be a futile thing for me to try and discuss it fully now. But, as I was saying, the profit to the refining amounts to .66 cents on each gallon which they sold to jobbers, and that is a complete operation. That is finished. They sell it to the North Star Oil Company and then the North Star Oil Company takes it over and makes money on it or loses money on it. But the refinery as such, the Imperial Oil has really nothing but the refining operation there. That is complete. You say that is true, they make money. The refinery sells about half of its gallonage to the North Star, for which it is paid and the transaction is finished. I mean the North Star and the Canadian and Union and so on. And that is finished. That does not go on into anything else. So it is important to know what the Imperial paid on its refining sales and what rate of return, and there is a complete end. There is a complete cut-off at the refinery door, with respect to a great deal of the business. It does not fit in with anything else. Then you say if you are going to put together the profit which the Imperial makes - let us assume that they sell half of their gasoline at the refinery door to jobbers-----

THE CHAIRMAN: They might just as easily, Mr. Frawley, surely as refiners, turn over the whole of their product to their marketing department, and the marketing department sell it to different persons, service stations, or to jobbers. It is all how you build the picture. The refinery could do it completely by selling every gallon to its marketing department, which would seem to me just as logical as

marketing , and if you market to the jobbers surely it is in the same class as marketing to a service station.

MR. COTTLE: If they did, Sir, then we would sever the operations in marketing the same as we did with the Texas Company. The Texas Company sells to jobbers in tank car and in order to get a look at the marketing operation of Texas Company we segregate the tank car business of the Texas Company. The whole purpose is to make an intelligent analysis of the two different prices. One is the tank car price and the other is the tank waggon price. There is a complete operation lying between the tank car price and the tank waggon price. We have companies that operate exclusively between that spread. If we found, for instance, that the Imperial by this analysis made no money at all in marketing and made 20% in refining, then we would probably have a condition of using the excess profits out of the monopoly part of the business, namely, the refining, and using it punitively in the marketing where there are competitors. Therefore, it was absolutely necessary to divide the operations up so as to find out the reasonableness of these two different prices, the tank car and the tank waggon.

THE CHAIRMAN: Well, I can see that there might be very cogent reasons for doing everything that has been done. But at the moment I yet have no light on why this Commission should set out to be punitive when we have, if we ever do, reached a point of saying "Well, we are going to regard this company as a utility although we do not provide the advantages usually associated with a utility." If we are going that far surely the first thing we would ask ourselves is, I care not how it be calculated, "What return has this company got

on its invested capital in the Province of Alberta?" As I understand it now the answer will be "We do not know."

MR. FRAWLEY: As far as I can now see, we do not know.

(Page 17,698 follows.)

J. J. Frawley, K. C.

THE CHAIRMAN: Well then are we going to have to say then (1), "I do not know what return they have now but one thing I am sure of it is so high that it must be reduced", are the two not quite ----

MR. FRAWLEY: If we arrived at that stage I for one would not ask you to.

THE CHAIRMAN: Well, we are coming to it again you say?

MR. FRAWLEY: Yes.

MAJOR LIPSETT: It might be when you are coming to it from the viewpoint, this is a viewpoint which you might consider or rather two viewpoints, one is the general return for Canada is 5.70% you say?

MR. FRAWLEY: 5.4%.

MAJOR LIPSETT: 5.4%. If the return in Alberta ranges around the figures you have given then it must mean that over the rest of Canada they ware working at considerably less than the 5.4%.

MR. FRAWLEY: Oh, yes, surely, that was the point I was endeavoring to make last week.

MAJOR LIPSETT: And a second point I was thinking of was this, and I do not know whether there is anything in it or not, you talk about the return to the investor. Now if that on the market quotations of the shares is around 6% or 5% or whatever it is, immediately you put it on the 10% basis you give more than a 100% capital appreciation to those people who put up the money originally. If they stand on a 5% basis now, you make the $1.00 share worth $2.00. I do not know whether there is anything in your argument on that.

MR. FRAWLEY: The reason it goes down from the 10, is that competition brings it down.

J. J. Frawley, K. C.

MAJOR LIPSETT: I am not talking about competition at all. I am talking about the man who puts his money into the refining of oil in Alberta, that is as indicated by the stock market price of the shares and the rate of return which the man putting the money in gets.

MR. NOLAN: No man puts his money into the refining business in Alberta.

MR. FRAWLEY: How about Mr. Mayland?

MR. NOLAN: I mean so far as the Imperial is concerned.

MR. HARVIE: He puts a great majority of it into the South American enterprise, a great portion of the enterprise is that.

MAJOR LIPSETT: What return does he get on the stock market prices which include, as you say, now, what would seem to be a rather more speculative business down in South America.

MR. FRAWLEY: No, not so speculative I would say but anyway it has been segregated, Mr. Commissioner, the 5.47% is what the Company earned on its refining and marketing operations in Alberta.

MAJOR LIPSETT: I was on another point, Mr. Frawley, I was on the other point now that the stock exchange quotations for the shares would return the investor, I am referring to what return the investor gets on it, based on that quotation.

MR. FRAWLEY: Well I do not know whether it is on the point ----

MAJOR LIPSETT: If they stand on a 5% basis now and they get 10% profit, that simply means that the $1.00 share

goes up to $2.00 and you give your investor a 100% capital appreciation.

MR. FRAWLEY: I do not know if I have made myself clear when I said 10%. My position is simply this, I do not want to be put in the position of advocating that a company can come into this province, and I am regarding it from the standpoint of this province, should be expected to come into this province and carry on his refining and marketing business on 6%. It may be that they will be driven to accepting a lot less than that bur for my part I simply put it to the Commission that they should be entitled to recommend, and if this Commission were allowing them something in that respect, it should be up to 10% and I stop there. I think having in mind the basic experience of these products and the basic nature of the product it is not a matter of ---

THE CHAIRMAN: You say it may not earn even 6%, indeed it may have to operate at a loss but that is their bad fortune.

MR. FRAWLEY: That is right.

THE CHAIRMAN: But you say for this particular kind of a commercial venture it is not to be expected that captial would be attracted into it if it knew ---

MR. FRAWLEY: That is right.

THE CHAIRMAN: That it was going to earn anything less than 10%.

MR. FRAWLEY: That is quite precisely what I am talking about and let me say again I am talking about refining and marketing.

MAJOR LIPSETT: That is for somebody putting up new money?

MR. FRAWLEY: Yes, that is the approach which I have to it when I say 10%.

MAJOR LIPSETT: Yes.

THE CHAIRMAN: Well, we are coming to it again.

MR. FRAWLEY: Now then I want to pass to the question of standards and I think I can be very brief ---

MAJOR LIPSETT: Before you leave Montana, Mr. Frawley, because it seems to me that is an interesting branch, there is practically 13% now of this gasoline business being diverted from the companies who put their money into this province.

MR. FRAWLEY: It was 13%, just under 13% in 1938, in 1938, yes.

MAJOR LIPSETT: 12.95%. Now is it your attitude that we should take it, that that should be encouraged and increased if possible in order to get competition or should it be brought to the notice of the people of this province either by means of a license or something else, that the Turner Valley production was being hit to the extent of 13% by these foreign imports?

MR. FRAWLEY: Yes, and before I answer, let me bring the figures up to date. Exhibit "731", which is only the first 9 months of 1939 and as I say I undertook to see that the Commission got them for the whole of 1939.

Exhibit "731", that is the gasoline consumption up to the end of September, that shows the figure comparable to 12.95%, was 15.37% for the first nine months only of 1939 and what that figure will be at the end of the year ----

MR. HARVIE: What was the figure?

MR. FRAWLEY: 15.37%, which indicates the trend.

Now then answering your question, Mr. Commissioner, well perhaps I answered it a moment ago in my discussion with the Chairman, I am striving to advance all legitimate competitive factors which will keep the price leader alive and ultimately result in, ultimately result in reductions in tank wagon prices only to the point where the company can still, the price leader can still carry on his business without a loss. I am not seeking, as I made it very plain, to drive the Imperial Oil Marketing Department or the Refining Department out of business.

Now then you put it to me, well if we had more Montana gasoline coming in the price leader would be more and more susceptible to competition and we would perhaps get a reduction in the tank wagon price sooner. Well, I will not go that far, that is all Mr. Commissioner. I will not throw the Alberta producer to the Montana producer in that fashion, certainly not. As I say, if I had my way I would shut off the Montana gasoline completely and I am only arguing about the Texas Company because I accept the fact as I find it, namely that the existence, the presence in the Province of this Texas competition, and it would be infinitely better if the Montana competition were, I mean if the Texas Company competition were still here and the Texas Company was using Turner Valley crude.

MAJOR LIPSETT: I can see that and I accept that at once but the position as I see it now is that from 12.95% of the total gallonage, this Montana crude has now gone up to 15.37%.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: That is nearly 3% more of Turner

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Valley crude being excluded from this market.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Now as I see it, we are interested in this Province in exporting the crude from Turner Valley right through a pipe line to the world markets.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And here at the same time we are losing right in the homes of Alberta 15⅓% of the gasoline consumption of this Province.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Now what I would be interested in, if you have any ideas on that, whether the Government of this Province, within its powers, should not do something to help the companies that have put their money into this Province.

MR. FRAWLEY: I think -----

MAJOR LIPSETT: By bringing to the notice of the public in this province how they are treating both the Turner Valley producers and the companies that have invested in refining and marketing and producting, producing and refining oil in this Province.

MR. FRAWLEY: I think I see what you mean. I do not think there is any question about the attitude of the Government of this Province. One goes along the highway and sees large signs, "Buy Alberta Made Goods", "Buy Gasoline Made From Turner Valley Crude", there is no question about that both from the selfish standpoint, from the selfish viewpoint and in the interests of the whole provincial economics, the Department of Lands and Mines and the Department of Trade and Industry is very alive to that very thing. Now the first thing to do, Mr. Chairman and Mr. Commissioner, is to have it

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shut off, have the Dominion Government shut it off, that is the first sensible thing to do.

MAJOR LIPSETT: Now assuming that cannot be done and subject to whatever you say; I think it is difficult, having regard to the American Treaty.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: And also assuming, as I do, the good will of the Government of this Province towards the use of Alberta products.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Then is there anything you can suggest that this Commission might recommend.

MR. FRAWLEY: I will discuss that.

MAJOR LIPSETT: Do you or do you not think it desirable that every help should be given to the companies that are refining in this province, to compete as much as they like and to the very ultimate end, with the Alberta products, but whether they should not get all possible help as against this competition from Montana?

MR. FRAWLEY: Well now what can be done. I will mention some of the things that have been suggested. Now I do not know whether to seriously recommend them to this Commission or not. I just hesitate. I want to be serious in my submission. Now one thing was suggested, I do not know now whether it was suggested by the Alberta Petroleum Association or not, perhaps it was no more than just talked about, the Government of the Province of Alberta collects a 7 cent tax on all gasoline and 6 cents is rebated for all gasoline that is sold to farmers for use on the farm. It was at one time mentioned to me that the Provincial Secretary through that Statute or by appropriate

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Amendment or Regulation, should refuse to rebate the 6 cents on all gasoline which was not of Alberta origin, just refuse to rebate the 6 cent tax; in other words, the farmer would be required to pay 7 cents and he would soon stop buying that kind of gasoline. Now then we do know however that the Texas Company has a very small amount of farmer business. I think we know that. I think the evidence will bear me out on that, it has a very small farmer gallonage, it has a very big city service gallonage, so that expediency would not be sufficient. You would have to go further.

MAJOR LIPSETT: Would that be legal have you considered that at all.

MR. FRAWLEY: No, you see I have not considered it at all. I say these are the things which have been mentioned as punitive steps against the Texas Company.

MAJOR LIPSETT: I would not like to put it that way, I would rather put it as steps in favor of refiners and mareketers of the local companies.

MR. FRAWLEY: Well Mr. Cottle suggests that price is the way to keep Montana gasoline out. Well looking at the record of the Texas Company, price is not much of a factor. They are losing money in every phase of their operations and that does not seem to bother them and we do not know whether it is a loss over all, that is the catch, that is what we do not know, perhaps there is not a loss over all at all, notwithstanding the very considerable loss in this Province.

MAJOR LIPSETT: Supposing there is a loss in this Province, assuming your proposition, that, without binding you to a figure, that a reasonable rate of return is only fair for the refineries in this Province, whatever that figure may

be, is it at all fair competition for somebody with the idea of putting in Montana crude oil into this province, should compete at a loss, that is to say ---

MR. FRAWLEY: No.

MAJOR LIPSETT: If you assume that proper marketing would take them out of the province unless they were making a reasonable profit. Then the ulterior motive, which may be a proper one, is for them to get in Montana crude from their Montana Refinery, is that fair competition?

MR. FRAWLEY: I am not sure that I follow you but I have had this personal view about the Texas Competition, I think it is exceedingly difficult competition for the other companies to meet because of the money they have got, the wealth of the company, they seem to be quite content, as part of an international marketing organization, - they say that it is an international operation, - they want to keep the Texas sign here for the use of the American tourist coming up, well it is pretty difficult competition because they come in and they virtually buy their way into the market with huge sums of money. Well that is always very difficult competition I would think, whether in the oil business or in something else and then what to do about it, what to do about it, discriminate against them in the matter of licenses, you could do that, the Licensing Act says no license shall be issued unless the Minister says so and he has all that power, I will read the section to you, but when you say not punitive, I am perhaps not understanding but I think it must be punitive to keep the Texas Company out, to get the price of gasoline down,

MAJOR LIPSETT: Have you considered anything like

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an extra Licensing Duty or a reduced licensing duty where the Alberta product is handled or the compulsory putting up of notices that the product is imported or something like that?

MR. FRAWLEY: Well that was done as a voluntary sort of thing. I think the Petroleum Association, I think alone perhaps, did carry on a campaign to have the Alberta, the stations selling Alberta made gasoline, to have signs on their stations telling the public that they were selling Alberta made products. I had always thought personally, just discussing that, that the Imperial Oil might have labelled their stations a little more prominently. I am not saying that they do not, no, I do not say that they do not, they did have them there and they took them down, they gave way in favor of some other advertisement, I do not know what it was, but the Imperial Oil has a very prominent sign near the street in every service station, just now it is carrying the seasons' greetings. Now that sign might say, "Alberta made Products" and keep on saying it and now that is just something that might be considered. The section is 9, the section is 9:

> "9. No licenses shall be issued under this Act unless
> " in the judgment of the Minister it is just and
> " desirable so to do, having regard to the interests
> " both of the public and the persons engaged in the
> " production, manufacture and sale of fuel oil."

Meaning gasoline, now I do not know, I suppose the Minister could just reject every application which comes from the Texas Company. I do not know whether he might be stopped from doing that, I do no know.

THE CHAIRMAN: That would be something you would

have to give very serious consideration to.

MR. NOLAN: There is an Amendment of the Judicature Act which takes care of that.

MAJOR LIPSETT: I can see, Mr. Frawley, that there might be very considerable difficult in a company like the Imperial that operates in many different parts, being in great difficulty about putting up signs which you recommend merely for the benefit of Alberta. They are meeting Texas Company's competition in many other parts where this propoganda might be easily used against them but the Government of this Province, I could quite imagine that the Government would welcome and give every assistance to anything which would encourage the refining and selling in this Province of products from Turner Valley crude.

MR. FRAWLEY: No question about that.

MAJOR LIPSETT: And what I am putting to you is, assuming the Government is 100% willing to help, is there anything that we can bring to their notice that would help them in helping the refineries, and one thing which just occurred to me and which I thought perhaps you would consider, was whether it could not be definitely stated, posted up in service stations or other points where they were selling imported products if that was the case, so that the public would know that they were using an imported product. I would say for myself, before this Commission started, I did not know which product was made from Turner Valley crude and which was not and there may be quite a number of other people in the same position.

MR. FRAWLEY: I met a man the other day from the East who did not know anything at all about which gasoline was

made from Alberta crude at all but I will bring to this Commission this afternoon if I can, and I presume it is still going on, the Montana Oil Journal carries an advertisement of the International Refining Company, the place where this Texas gasoline comes from and this advertisement states that the International Refining Company is proud to say that their gasoline is made from Montana crude. That is the funny thing to me, they are proud to say that when they want to sell it to the Montana people but when they come up here they do not put that on their advertising and perhaps it is not to be wondered at.

MAJOR LIPSETT: You might easily arrive at the situation, if this percentage increases sufficiently, where local refining companies cannot supply the products by reason of reduced volumes.

MR. FRAWLEY: My position simply is that the Texas Company's competition is alive, their live methods of marketing are all it is but they should be marketing Alberta crude, leave everything else as it is but let them market Alberta crude, that is all. I do think, as I said yesterday, that they are a help in keeping the price leader on his toes, but it is unfortunate, it is exceedingly unfortunate, that that much gasoline is coming in from Montana and if I had my way I would stop it. There are no two ways about me, I do not want to be misunderstood about it at all, I would sacrifice the good of the competition, I would sacrifice it at once and I would shut off the Montana gasoline entirely but that cannot be done except by the Dominion Government. They could do it and apparently they are thinking about it now. Now that is

so and the little things this Province can do are those things you are talking about, Mr. Commissioner, and I do not know whether or not it should be recommended that the gasoline tax on Texas gasoline should be 15 cents and on Mr. Harvie's gasoline should be 7 cents. Supposing you could do those things, but can you, but can you, would not some Court have something to say about it perhaps and so on? There are difficulties, of course.

MAJOR LIPSETT: That is what I was anxious, Mr. Frawley, to see if you could give any help as to what the province could do; assuming for the moment that they could recommend to the Dominion but that you cannot control what the Dominion might do, and that the Dominion themselves may be controlled by the American Treaty so is there anything that this province can legally do and which you think might be done?

MR. FRAWLEY: I will address myself to it again, Mr. Commissioner, if I can think of anything. I will not say, - if there is anything at all that seems sound and sensible, perhaps my friends should be interested exceedingly from a selfish point of view, I will ask my friends now if they can suggest anything which can be done under appropriate existing legislation or by new Provincial Legislation, and if they have, if they will let me have their suggestions I will be very glad.

MAJOR LIPSETT: It might be better if the suggestions came through you because something would have to be done no doubt by a Government Agency in some way.

MR. FRAWLEY: Oh, yes, but my friends are quite free to make suggestions.. I simply say that I associate myself with everybody in this Province who would like to shut

out the Montana gasoline, no mistake about that at all! But I say it is here, it is here, and I simply argue to the Commission, it being here it is a live organization. It evidences good, stiff competition to the Imperial Oil, it keeps Mr. Halverson, the price leader, on his toes with the ultimate hope that it is going to reflect itself over not too long a swing in a reduction of the tank wagon price and that is all. My position is very simple.

MAJOR LIPSETT: But supposing it went a little further than that and it became so expensive it put them out of business.

MR. FRAWLEY: I say it is wrong, shut it all off tomorrow, shut it all off, we do not want the Montana gasoline here at all but we are in the Dominion Government's hands as to that, but what we can do in our small way in the Province is something else.

Now on the question of standards, Professor Stansfield deals with it in Volume 119 commencing at Page 13,347 and I think it is pretty well summarized in one of the statements by the Chairman at Page 13,382, at Page 13,382 the Chairman says, oh, yes, at the bottom of the page; the Chairman says:

" I take it, Mr. Frawley, the witness in any event
" is not prepared to lay down a formula. While he
" would like to have adequate protection, ----

"MR. FRAWLEY: Oh, no.

"THE CHAIRMAN: He simply is giving his blessing
" to the idea of standardization.

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"MR. FRAWLEY: Yes.

"Q THE CHAIRMAN: While he says there are some
" objections to it, as I understand you in the main
" you are of the opinion that they should be put into
" effect, some standards?

"A Yes.

"Q Some minimum standards?

"A Yes.

"Q And it is hoped to have the co-operation of the
" industry.

"A Yes. "

THE CHAIRMAN: Who is speaking there?

MR. FRAWLEY: Professor Stansfield, and yourself, Mr. Chairman, Professor Stansfield.

THE CHAIRMAN: Volume?

MR. FRAWLEY: Volume 119, Page 13,382 and going over into 13,383.

In Volume 114 Mr. MacKenzie talks about it at Page 12,882.

THE CHAIRMAN: Who is Mr. MacKenzie?

MR. FRAWLEY: Mr. MacKenzie of the Grest West Distributors:

"Q That comes down to this that you believe there
" should be Government intervention setting up stand-
" standards?

"A I do.

"Q That is a minimum, to comply with the minimum spec-
" ifications, and let competition as between individual
" companies have its sway over and above that minimum?

"A Yes. That is right. So that it will be protected.

" Absolutely I favor that."

THE CHAIRMAN: Where was that?

MR. FRAWLEY: That is Volume 114, Page 12,882 and it is the Chairman's questioning of Mr. MacKenzie and the interesting point is there, you see the fear was that everything would run down to this minimum but the point which every witness and Professor Stansfield himself made clear and Mr. MacKenzie states it there, it is really your statement, with which Mr. MacKenzie agrees, that there can be minimum standards and then the companies can strive for quality over and above that and there should be no danger that things will settle back and let the minimum become the standard. That is the point there.

Then in Volume 119 there is another reference by Professor Stansfield, yes, at Page 13,384:

"THE CHAIRMAN: Whatever may be said as to the

" detail of it, as I understand the witness, he

" commits himself to the principle of standardization.

"MR. FRAWLEY: That is the point exactly.

"WITNESS: Yes.

"MR. FRAWLEY: No doubt about that?

"A No.

"THE CHAIRMAN: Mr. Frawley, if I may interrupt

" you, it is quite clear that hearing this witness, if

" it has accomplished nothing else, it has established

" this, that some form of standardization can be made

" for the farmer as well as others.

"MR. FRAWLEY: Yes. It is not, as I understand,

" that you do not contemplate, the work you are doing

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" does not ignore the farmer?

"A No.

"Q You say there is just one item that is not as

" complete as it might otherwise be and that may be

" made complete for a further expenditure of seven or

" eight hundred dollars?"

THE CHAIRMAN: That is Professor Stansfield?

MR. FRAWLEY: Yes, and still in Volume 119, in fact it is all in Volume 119 ----

THE CHAIRMAN: MacKenzie was Volume 114?

MR. FRAWLEY: Oh, yes, MacKenzie when he was giving his own evidence.

THE CHAIRMAN: And this last Page?

MR. FRAWLEY: It is Page 13,384.

Then the next one is Page 13,385, Professor Stansfield says this:

"Q MR. FRAWLEY: Does standardization do this to

" the industry, as you know there are big companies and

" little companies, refining and wholesaling petroleum

" products in Alberta?

"A Yes.

"Q There are big companies and little companies?

"A Yes.

"Q Rich companies and companies in more moderate circum-

" stances?

"A Yes.

"Q Now if you issued certain minimum specifications for

" gasoline it would be possible, as I understand, for

" the motorist who purchases it to go equally well to

" the small company direct, to buy the small company's

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" products as well as the large company's products?
"A That should be provided. That should be taken care
" of by the standards.
"Q And if there is feeling in the mind of the motorist
" that he is not going to take a chance on the small
" man whose equipment he knows is not as elaborate as
" the large company's, if he is seeking safety in the
" assurance of minimum standards, then he can go equally
" well to the small company as to the large one?
"A Yes, if standards are in force and enforced.
"Q Yes, enforced, assuming that. Now as to the maximum
" standards, you do not feel there will be any or do
" you feel that there will be any tendency on the part
" of the companies who at the moment are striving to
" make better products, I mean than the others, that
" there will be any lessening of that tendency?
"A I think that is a question to ask the industry.
"Q Do you think the standards of themselves would make
" them indifferent to selling quality products?
"A No, I do not think that at all. I suggest there is
" the possibility but I do not think it is necessary
" at all."

Then another question and answer:

"Q We did have some of the witnesses who came, Professor
" Brown from the Univeristy of Michigan, a very learned
" man and others, and Dr. Frey too from Washington,
" who spoke of an Octane race, the gasoline companies
" were engaged in an octane race and we do hear over
" the air and in the newspapers and on the billboards

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" of octane being burned into the minds of the motoring
" public and we have had it stated here that some of
" the companies do put out a product, this is in the
" Ethyl No. 1 class, of a much higher octane class
" than its competitors, at the moment anyway, now would,
" standards would not affect that, would not cause that
" company to abandon its campaign and its desire to
" put a higher octane product in the hands of the
" people, would it?
"A I think that any company could put a notice on any
" of its pumps or a statement to the effect of what
" the octane number of that gasoline was.
"Q Yes.
"A And can use that brand for advertising purposes
" regardless of any minimum value.
"Q The minimum for the safety of the public and the
" maximum for its own advertising purposes?
"A Yes."

And I think that covers it.

Now, our submission is that because of Professor Stansfield's opinion and because of the unanimity on the part of the industry, that the Commission might well recommend that the work which Professor Stansfield is doing be continued, resulting in the setting up of standards for petroleum products that are sound in this Province.

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MR. FRAWLEY: Now I approach the subject of retail margins and it is a very troublesome subject for the reason that.... .

THE CHAIRMAN: Did Dr.Frey speak about standards?

MR. NOLAN: I have a reference to it,Sir, Volume 120, at Page 14,387.

THE CHAIRMAN: He cast some doubt.... he said something about it was just as good as the policing.

MR. NOLAN: He said it is hard to replace integrity with standards and it is only as good as the enforcement of the law.

MR. FRAWLEY: That is Professor Stanfield's idea too. Dr. Frey says at this point in Volume 129, at Page 14,387.

"A I think there is a degree of protection to
" the consumer if the oil inspection activities
" of the Government that adopts them is rigourous
" and the standards are no better than the oil
" inspection service of the political division
" which has passed such measures. In certain
" States such measures are followed up very
" closely and periodical examinations are
" made of the quality of products being sold.
" It costs quite a little bit to do that and
" that, of course, is passed on to the consumer.
" I do not have very many examples of just what
" those taxes amount to, but they vary from
" State to State. In some instances approximately
" about one-tenth of a cent a gallon, which has

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" to be absorbed by the consumer. But this is
" an assurance this is what he is paying to
" assure him that the State is doing a job at
" determining that the minimum standards estab-
" lished are being adhered to, and the company
" that violates those standards is brought to
" justice. I should say that standards are
" no better than the administration of the law."

You see the reason I advocate standards is, I think, it has some advantage. He refers to the Squibb Company. He says:-

" It is sort of like that qulaity that Squibb
" advertises. It is integrity and it is hard
" to replace integrity with standards.
"Q Yes. Well, would you say that the public gets
" any measure of protection from minimum standard-
" ization?
"A Yes, they do. "

And then he goes on.

THE CHAIRMAN: I just want the reference, Mr. Frawley.

MR. FRAWLEY: Yes.

THE CHAIRMAN: On this particular point. I am asking you for references that we already have in other briefs and it is only so that I do not have to go through give briefs when I am considering your argument, even as when I am going through someone else's argument I want to have all the evidence that is surrounding it.

MR. FRAWLEY: Yes, now retail margins.

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It is a very troublesome question. There would seem to be two evils, but then of course there is a question mark comes in as soon as you say evils. In any event there would appear to be two situations in connection with the retail margin. One is the actual and potential collusion between retailers to thwart the supplier's tank waggon cuts and secondly, what has been called here "Under Canopy Chiselling".

THE CHAIRMAN: Mr. Frawley, may I ask you this - we perhaps should have that section of the Code before us sometime ere we are done - but supposing these people in Calgary who are engaged in the retail business said now "We can buy our gasoline for a little less it is true, but we do not want to work for the public for nothing. It is not reasonable that we should. Now we had better have a meeting about this and instead of cutting each other's throat we want to arrive at a fair price", would you say they immediately become criminals?

MR. FRAWLEY: Oh no.

THE CHAIRMAN: "We want to arrive at a price that is fair to us and we want to see if we cannot come to an agreement and stick to it. We do not want any more than will just give us a decent reward for the work we do." These gentlemen by meeting together and coming to an agreement first after debating what is a fair price and secondly agreeing then to stay with it instead of going in for cut-throat competition, have they become criminals in this country? It might be so,

MR. FRAWLEY: If they are it is because of the wording of the Section 478 of the Criminal Code, and the wording of the Combines Investigation Act. I will

have something to say about that. But I do not for a moment say they would. It has to be to the public detriment.

THE CHAIRMAN: I am not sufficiently acquainted with the wording of the section as to be able to say whether they would be. But it would seem absurd that people with an honest endeavour to keep their business clean and right and fair and just, should become ordinary criminals.

MR. FRAWLEY: I suppose there must be public detriment. But that is not Dr. Frey's point, as far as collusion is concerned. Dr. Frey does not like the idea of people getting together, whether legally or otherwise, and thwarting the price reducer. You saw an example of it, no better example in the world than what happened here on the 25th of October. It happened while Dr. Frey was here and Mr. Halvorsen was here and we were just able to discuss that with them. Now that is what Dr. Frey objects to. Here was Mr. Halvorsen authorizing and ordering a price reduction for a certain specific purpose which he in his wisdom, and Dr. Frey in his wisdom thought it was indicated and proper and for the good of the Imperial Oil Company. Dr. Frey made that plain, for the good of the Imperial Oil Company to stop the drainage from "Q" to Third. What happened? It was fairly questionable whether or not anything was going to happen. It happened outside in the country where Mr. Halvorsen has it in hand, but in the cities of Calgary and Edmonton the retailers, perhaps properly from the standpoint you have indicated, said "No we will not pass that on. We want to make our

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spread not 4.5 but 5 or 4.6 or 4.7 or whatever it might be, after due meeting and assembling and after considering the whole thing." I suppose they said "No, we are going to pick that up and we are not going to pass it on to the consumer." I am assuming only for the sake of this submission, no agreement at all, but Mr. Halvorsen completely frustrated. That is all Dr. Frey says is wrong. Let them make up their minds what is a fair spread and let that spread be dealt with separately. That is all. All the witnesses say as a general principle, tank waggon cuts must be passed on. That is the basis of my whole submission.

THE CHAIRMAN: Now why? Why should they be? Because it has been done? Why has it been done? Because if somebody had not done it somebody else would, and competition required it.

MR. FRAWLEY: No, but they make a tank waggon cut to do themselves some good. This competitive system does not have much regard for consumers.

THE CHAIRMAN: That is quite right.

MR. FRAWLEY: Mr. Halvorsen reduces the tank waggon price on the 25th of October, not to do the consumer one iota of good and I want to make that very clear. Dr. Frey said so. Dr. Frey made it very plain that he advocated and advised the reduction in the price of "Q". Well he said the price of "Q" gasoline was too high, and I urged him to say it was too high because of the consumer, but no he would not go along with me at all. He said it was too high for the good of the Imperial Oil Company, and so he said the Imperial Oil Company if they are smart had better shrink

that differential. Now how to shrink it? Third was where it should be so reduce the price of "Q" . That was the advice Dr. Frey would have given to the Imperial if they had called him in to advise them professionally. So Mr. Halvorsen made the cut. That was a cut which would have to run to the consumer to do its work, and it was just nip and tuck and thanks to the Imperial doing some interfering, which they say was an inconsistency.....

THE CHAIRMAN: I was going to say it is the proud boast of most oil companies that they have nothing to do with the retailer which is hardly in consonance with the idea that by cutting down price they can get greater volume. Because if they reduce their price, and it is not passed on there will be no greater volume.

MR. FRAWLEY: No, they have something in between. Here is the public and here is Mr. Halvorsen, and he has got to get through the man who does not see his way at all.

THE CHAIRMAN: And over whom, theoretically, he has no hold at all?

MR. FRAWLEY: Yes, and it was a beautiful piece of inconsistency that Mr. Halvorsen was able to - and I think it was plain and I think it was very proper, and I do not subscribe at all to this aloofness of the oil companies from the retail business at all, and I will have more to say about that. Now the first thing I say that is evil or something that has to be discussed here, and dealt with, is this collusion. Actual collusion. We have an example of it on the 25th of October. And potential collusion. It is there all

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the time. This business of thwarting the price markers, the Imperial Oil Company as far as this Province is concerned anyhow.

THE CHAIRMAN: Before you can speak of it as collusion, you do not mean in the sense that the word is usually used, that is starting out to do something wrong. You may or may not mean that. But before you even censure people for agreeing on their price and subject always to what may be said in the Criminal Code in the sections that I am not familiar with, have not you got to say "Well now what is the fair spread for that retailer?"

MR. FRAWLEY: Sure.

THE CHAIRMAN: Until you first made it fair for him you cannot blame him for wanting to get it higher and seeing to it that he gets it higher if he is truly in control of what he sells for.

MR. FRAWLEY: There is nothing more difficult in this whole submission than the endeavour to say to this Commission what is a fair retail spread. I have a little bit of evidence as a result of a survey made by Mr. Simpson in the City of Calgary.

THE CHAIRMAN: You have Mr. Halvorsen's views?

MR. FRAWLEY: Yes, he just says, oh well yes, we have him pretty well committed to 4½ cents in Calgary and Edmonton and 5 and 6, and then still more. But that is balanced by what Dr. Frey says.

THE CHAIRMAN: You have a disagreement as to the remote parts from Dr. Frey.

MR. FRAWLEY: But I have to have some

starting place. You have to give me a starting point, and I am taking as the starting point 4½ cents. I have to have some starting point otherwise I am constantly shifting my position. If I cannot say 4½ cents then perhaps it should be 6 or 7.

THE CHAIRMAN: From the evidence we have heard I think it would be safe to say that your service station agent, so long as conditions remain as they are, is only entitled to 4½ cents.

MR. FRAWLEY: Yes, I think it is quite proper for me to make that submission. The importance of that is it is 4½ cents in Calgary now and it has been 4½ cents in Calgary for about a year. There is not any agreement between the retailers about that 4½ cents and they might perhaps try to do the same thing they tried on the 24th of October, they might try to do that again with Mr. Halvorsen's next cut.

THE CHAIRMAN: It is all so difficult, because if the price of beefsteak went up in the meantime they might be quite justified in saying "We have to have 5 cents" because after all with all the tires and overalls and things we have heard of, we have to close up shop or get more money.

MR. FRAWLEY: There might be all kinds of extraordinary matters come in as a result of war conditions and so on. I have to make that allowance and quite agree that these will alter. But I am suggesting that things being as they are no change in the 4½ cents seems to be proper. Take the proper starting place for Calgary, and Edmonton has of its own motion and by doing a little getting together too and doing a little

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bit of frustrating of the supplier, the Imperial, and that is all you can call it, they have made the spread 4½ cents in Edmonton this last month so we do not need to worry about Edmonton any more. It is now 4½ cents the same as Calgary. Let us start with 4½ cents in these two cities. Well, Mr. Halvorsen makes a cut next month. Then by getting together, and I only use the word collusion because Mr. Frey used it and it has perhaps a more sinister meaning with us than it might have with him, so let us say agreement, they might frustrate the next tank waggon cut very effectively this time, and then where are we? We are just nowhere at all. That is what I am concerned about. What has this Commission to do? What is my submission to be with respect to having some assurance about some regularity under the canopy with regard to tank waggon cuts. I can call your attention to what Mr. Stevens says about that in Volume 132, at Page 14,689, or thereabouts. He says this is the Chairman's questioning -

"Q All right. The situation then is this. That
" when an announcement is made that the Imperial
" Oil as price leader has dropped the price of
" gasoline or any other product, any other
" petroleum product, it is on the knees of the Gods
" whether the public gets any benefit or not; you
" have nothing to say about it?
"A That is correct.
"Q Do you think perhaps you should have?
"A Well, it is a debateable point. "

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And then he says at Page 14,691:

"Q But what I started out with, we have got into
" a broader field, but what I started out to
" ask you about was, where you have the illus-
" tration which has now been in force for a year,
" of the public in Calgary being treated differently
" from the public in Edmonton, where all the forces
" of competition are in force and in full play in
" both cities, rendered nugatory by the simple
" process of agreeing amongst themselves that they
" will not come down, do you not think that it is
" time that the industry or some other body had
" something to say about it? "

That is still questioning by the Chairman. Mr. Stevens said:

"A Well to have a uniform price spread it would be
" necessary that somebody control it.
"Q Yes. Now, it may be, and I am not discussing
" the amount of the price spread now, but it may
" be that the 4½ cents in Calgary is the more
" proper figure than 4 cents in Edmonton. I
" am not discussing that. I am saying that
" something is right and somebody should see that
" it stayed right. What do you say about that?
"A That would appear to be the only answer, to
" have a uniform price spread; otherwise,
" different cities will have different price
" spreads, depending upon the thoughts of the
" dealers in those cities. "

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And then Mr. Harvie made his well known interruption and told us that we must not be concerned with the apparent price spread in these filling stations because we had heard evidence that it really amounted to nothing. Mr. Harvie said "It is only the sucker that pays that price, I believe is the expression." And then Mr. Harvie calls our attention to something that is there, and that is there appears to be a reduction given to various kinds of customers under the 4½ cents, which is the next subject I want to discuss.

THE CHAIRMAN: Where are you reading now?

MR. FRAWLEY: I am reading from Page 14,692. That is the famous expression that was attributed to me. I picked it up and used it. I am just as guilty. I am not only guilty but it is a fact. There is not any use fooling about this sucker trade. Dr. Frey tells us about it and Mr. Miller tells us about it. It is something we have to face and discuss in this Commission.

THE CHAIRMAN: It just annoys us to think we are suckers.

MR. FRAWLEY: That is right too. Why should not we get in on the cut?

TYE CHAIRMAN: I suppose you are going to address yourself to just such subjects before you are through?

MR. FRAWLEY: Yes. I put it to you now it is established from this evidence of Mr. Stevens, who is a man who has knowledge of marketing in this Province -he is the closest to it of anybody in that Company, in the Imperial Company, in the price leader's

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company, and he says there should be somebody doing something about it. I put it to him, I have not got that reference but I had better get it, I put it to him that if his company was selling gasolne they would have one price. Now I can give you that. Yes, that is in Volume 132 at Page 14,703. I was going to discuss that a little later on but I may as well read you a short passage now. Page 14,703 in which he tells me that if his company was in the retail business that he would sell at the same price.

"Q If you were operating a service station, if
" your company were operating a service station
" you would not enter into this silly business
" of taking just the ordinary fellow like myself
" that goes in and buys his gasoline and goes
" on about his businesss and charge him the posted
" service station price and the man that comes in
" behind me who makes a large noise and curses
" and swears around and gets a better price. You
" would not support that sort of foolishness?
"A No.
"Q Or your Company would not?
"A No. We would sell all at the same price. "

Now perhaps it is not a good thing that he should, and that is where the query is in my mind. A great query. But at least let us take that much out of it that if Mr. Stevens were retailing himself he would charge the same price. He says he would anyway. Competition might change his mind for him. Anyway he says he would sell at the same price.

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THE CHAIRMAN: What we will have to consider at some stage is whether or not this so-called chiselling under the canopy, and all these practices that one hesitates to approve of, while purporting to sell at one price selling at others, whether to deceive the public or one's competitors I care not, is it all though part of this competitive scheme? Is it part of the business of beating your competitor?

MR. FRAWLEY: Sure.

THE CHAIRMAN: That is something we will have to think about. Is it as essentially competition as anything else we hear about.

MR. FRAWLEY: Sure, that is what I am going to submit. Of course I am going to submit that there can be a lot of different posted prices. We have to face the situation. We are either going in one direction or the other, Mr. Chairman, and if prices cannot be fixed and I am not suggesting that they should,- and when I say that they cannot be fixed it is for the very good reasons we have discussed here - but if we are to turn our backs on price fixing, then we have to go to competition, and I say let us go all the way for the benefit of the consumer. But reasonably and not to reach the destructive stage. Not to allow the companies to compete until they put themselves out of business. We have Dr. Frey's four points, and we have this other the threat of Government intervention to save them from self-destruction. I do not mean that. But as long as there is healthy competition, but all for the one purpose, to assert itself on the price leader, then I say that is what must exist and what must be encouraged in this Province.

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Because my premise is that the price of gasoline can still stand some shrinking.

THE CHAIRMAN: For my part I wonder who is the more logical, Dr. Frey with his four conditions on which there should be intervention, or the man who says "No, you cannot have two things. If it is competition, it is competition, and if the industry goes to the wall is it not just too bad?"

MR. FRAWLEY: Suicide, well let them commit suicide.

THE CHAIRMAN: Well let them, and they do it. But you do all these things that we will have to worry about. In the meantime if we know of these practices, I was wondering if you thought that while they do not seem to be abovebboard and while they seem like hypocrisy, meanness, under-cover trickery, if they are not all part of the competitive scheme. I do not know.

MR. FRAWLEY: Well, that is frankly the point of view that I have about come to at the moment of course.

THE CHAIRMAN: I do not say it is my point of view.

MR. FRAWLEY: No, I say that is pretty well my point of view now.

THE CHAIRMAN: It is just a question, surely, if there is to be any Govärnment regulation of any kind, if some effort should not be put forward to provide some rules of the game that would eliminate that sort of thing?

MR. FRAWLEY: Oh yes.

THE CHAIRMAN: Perhaps it cannot be done.

MR. FRAWLEY: Mr. Halvorsen would like some rules of course. He would like it very orthodox under the canopy. But I want all things encouraged which will assert themselves on Mr. Halvorsen.

MR. COMMISSIONER LIPSETT: How does this putting up the retail spread in Edmonton by half a cent a gallon, how does that exert pressure on Mr. Halvorsen?

MR. FRAWLEY: No, that does not. That is just a case of the retailers thinking that they needed that half cent because Calgary had it, was one good reason that Edmonton should take it, and they took it. That is something apart. We peg that, and we say 4½ cents is the proper spread. Now I say if the British American Oil Company dealer in Calgary - to get down to a concrete case at least and follow out how it works in my mind - if the British American retailer, dealer in Edmonton today, took away from Mr. Halvorsen a wholesale account, one of these commercial consumer accounts we were talking about yesterday, and induced that wholesale grocer, we will say, to give up his tank in his own backyard, and decided to come into this British American dealer's service station, and come under the canopy and be serviced there and buy his gasoline there, the very first thing he would have to do to him would be to say "Now you are getting it from the Imperial at the 100% tank waggon and I will give it to you at 100% tank waggon plus 2 or plus a cent and a half but you will get the service from me. You do not need to bother about keeping an extra man at your place or take the time of your drivers to fill up the tank. But come into my service station and I will give you service and I will charge you 2 cents more." That is competition

asserting itself., But if he is prohibited from selling at less than 4½ cents over the tank waggon, then he cannot go out on the street and take this business away from Mr. Halvorsen. That is how it works out. That is free play of competition.,And it cannot be done unless you permit them to charge two or three prices.

THE CHAIRMAN: I wonder where it goes to? Supposing you accomplished all you suggest and you take most of the business away from Mr. Halvorsen. I am just wondering what you have accomplished.

MR. FRAWLEY: If you get most of it away from him? No, but he must not lose the business. I do not want Mr. Halvorsen to lose one single gallon of business. I hope I am understood about that.

THE CHAIRMAN: Well it might come to the point where he is going to do one of several things. He is either going to say "Well I will let that business go," or he is going to say "Well all right, if with the stamp of approval of this Government this sort of practice is to go on, all right, I will give them all they want. We will put the price down so that it is so punitive that everybody who is small will die." Then what will happen to you and your public?

MR. FRAWLEY: The Imperial Oil Company will be there serving the public.

THE CHAIRMAN: It certainly will, and it will be a complete monopoly.

MR. COMMISSIONER LIPSETT: Yes, with complete monopoly.

THE CHAIRMAN: With complete monopoly. You keep pressing a man with this and that to where he cannot get along and he is going to come back.

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MR. FRAWLEY: Mr. Chairman, that is not what is going to happen.

THE CHAIRMAN: If this undercover business is a good thing against him, he is going to answer perhaps with similar weapons. It is just a thought I have, Mr.Frawley. He is going to say "Now I am tired of these bees buzzing around stinging me, and I am going to kill them all off," and if he is successful.....

MR. FRAWLEY: I think there is a happy medium. On the one hand I refuse to say "Do nothing and let us wait for the long swing and do nothing." That is one thing, and with all the sincerity at my command I cannot subscribe to that. I cannot subscribe to the theory that Mr. Halvorsen would have me subscribe to, and all the witnesses and all the oil companies, because I cannot subscribe to this long swing business I cannot go in that direction. But there is surely a place before Mr. Halvorsen is going to put these people out of business, where he will come to the point where he is going to give a price concession. Now how long will it take him to do it. We had some experience with that in Third Structure. All I am wanting him to do in "Q" gasoline is what he had to do with Third Structure.

THE CHAIRMAN: He may give a price concession or he may paint a garage or he may end money or he may do all these things that at the moment do not seem to me to make for healthy competition.

MR. FRAWLEY: All right. We will leave it as it is. I am very open and frank about it. I am only trying to help the Commission understand all the possible angles of it. If we can do nothing

and be perfectly consistent, then it is perfectly all right. But I do not subscribe to that view.

THE CHAIRMAN: Make no mistakes, Mr. Frawley, for my part I shall always do nothing rather than proceed to do something that I have no reason to believe will be right.

MR. FRAWLEY: Well I have to confess that.....

THE CHAIRMAN: Or will advantage the situation.

MR. FRASLEY: I am trying to indicate where I think there can be still some place in the price of gasoline that Mr. Halvorsen can still reduce the price of gasoline wthout putting him or anyone else out of business.

THE CHAIRMAN: I am not saying you are not right. But you feel it is a good thing to have this painting of garages and lending money and lending pumps and going through the fiction of selling things that you do not intend to be paid for and all that sort of thing. You feel that is all to the good?

(Go to Page 17,735).

MR. FRAWLEY: Well, Mr. Chairman, let us be concrete about it, let us be concrete and I will tell you why I am, take like this, there is a company called the Gas and Oil Products which is just on the verge of expanding out, if it is not, it has made a very sad investment----

THE CHAIRMAN: Yes, all right.

MR. FRAWLEY: The Gas and Oil Products goes up into the town of Lacombe say and they want to get some representation, as they call it, they want to get some gallonage, into the town of Lacombe, and they are met with the 100% dealer, they are met with somebody who has been loaned a pump, they are met with somebody who has been loaned, a garage man, $5,000 to improve his place. Now are we going to shut that all off, so that Mr. Mayland will just fold his hands and go on to the next town and he keeps on going and he never sells a gallon of gasoline. Now that is all I am striving for. Mr. Mayland must assert himself in this market.

THE CHAIRMAN: Well would he not be more apt to assert himself if the only loans there were, were honest ones; where the only pumps sold were paid for.

MR. FRAWLEY: You couldn't do that with the money which is already there. You see if Mr. Mayland cannot come into this man who has a money loan and say "I will take over that obligation to the Imperial Oil", if he cannot do that then you have it frozen, that is what they call "freezing", that gallonage is frozen. Mr. Mayland cannot touch that at

all and if we are going to have a regulation----

THE CHAIRMAN: We are just exploring it but is not that part of the competitive system, if you put up enough money to freeze something, then all right, you have it frozen and why should it be unfrozen for someone who has not paid anything at all.

MR. FRAWLEY: No, Mr. Mayland would have to go in, he could not dislodge that gallonage unless he took over the liability and th t is all I am saying. I say, should the painting of garages continue only because I do not want to shut Mr. Mayland out from being able to offer to a man a painting job some day to get the gallonage and that is all. My position is as simple as that. Perhaps I am not making myself clear but that is all I mean, that is all I mean, if Mr. Mayland has to offer man to paint a garage as a quid pro quo for getting the gallonage, I am not going to say "no". "No, I do not care about Mr. Mayland and his gallonage", because I do, on behalf of the consumer I do care about Mr. Mayland because as Mr. Mayland bores into this market and makes himself felt, so does Mr. Halverson become more sensitive and so is the reduction in the tank waggon price brought nearer, that is all. There is nothing vicious or wicked about the submissions I am making, Mr. Chairman. If we can bring it all around to a situation of pleasantness and love, I would be very happy about it but you cannot do that, you cannot do that and still hope to have any effect brought about on the price of gasoline.

THE CHAIRMAN: Well I do not know. We

may have to approve of sourness and darkness, you know, but at least one must think about it first.

MR. FRAWLEY: I think I am consistent about it. There is perhaps a horrible consistency about it and you put it to me, I have to welcome the Texas Company with their Montana gasoline.

MR. NOLAN: That is laissez faire.

MR. FRAWLEY: No, that is laissez faire down in Ottawa perhaps.

MR. NOLAN: That is laissez faire with you.

MR. FRAWLEY: No, it is down in the Department of National Revenue in Ottawa.

MAJOR LIPSETT: Have you not to approach it on the point of view, not of the Gas and Oil Products, but from the point of view of whether it is right and proper that the present system of painting and all that sort of thing should continue as part of the competitive system or whether if it is wrong that that should be allowed to go on and if we come to the conclusion that that is wrong to allow it to go on----

MR. FRAWLEY: Yes.

MAJOR LIPSETT: Then is it not only a secondary question as to how to stop it. It has to be stopped at some time but how to stop it with all considerations of equity.

MR. FRAWLEY: Well I would like to know how you are going to stop it, Mr. Chairman. What are you going to do with the $65,000 which Mr. Halverson has out to freeze the gallonage, in my submission to freeze

gallonage, you cannot just say----

MAJOR LIPSETT: Then are you driven to saying the system should be allowed to go on.

MR. FRAWLEY: That is only why I am driven to it, I have to face the realities and I find that this giving, this loaning of money is freezing that gallonage. Now that is an obstacle in the path of the competitor whom I am seeking to encourage, why, for the purpose of making himself felt on the price leader and that is all and I cannot just simply say "Let this go on and have no care of it", that would be a very poor measure, that would be just a half-way measure and it would leave Mr. Mayland at the post.

MAJOR LIPSETT: Is this what it comes to then, that you submit that no matter how unfair or hard on new comers that should be, that it should still be allowed to go on so as to enable the present company----

MR. FRAWLEY: There you are.

MAJOR LIPSETT: To freeze a new comer out.

THE CHAIRMAN: I do not understand why you think that advantages a new comer always. It may be.

MR. FRAWLEY: Well if you prohibit it, a new comer must at least be permitted to do it as well as he can. Mr. Halverson can go on doing it.

THE CHAIRMAN: If they have all the, corners in all the towns frozen, as you put it, where is the advantage, where is the new comer getting on.

MR. FRAWLEY: I do not say for a moment that they have done so complete a job as that, Mr. Chairman, oh no, oh no, there are lots of places yet where Mr. Mayland can go in.

THE CHAIRMAN: Why cannot he go in and get anything which is not frozen.

MR. FRAWLEY: Oh yes, he can.

THE CHAIRMAN: What can we do about anything which is frozen.

MR. FRAWLEY: We are talking about a variety of things. Supposing we say there shall be no more painting of garages and the dealer jumps up and says "Well I have got it all these years from the other companies, and you will have to do something similar for me".

MAJOR LIPSETT: But if that was prohibited he could not get it at all.

MR. FRAWLEY: That is true. I am content to do anything at all that will make it even, even for them all.

MAJOR LIPSETT: Mr. Frawley, take it that one is only thinking out loud now.

MR. FRAWLEY: Yes, it is a tremendously difficult subject, of course you know, to find one's way through these complexities of competitive practices.

MAJOR LIPSETT: Supposing you came to the view that it was basically wrong and should be stopped for the future. Now that stops everything for the future. Would that prevent you having a provision or an extension that so far as that which exists at the present time, at the moment, that Mr. Mayland, to use your own example, should be at liberty to redeem or buy out existing ones, it would not prevent him from taking them over, would it.

MR. FRAWLEY: No.

THE CHAIRMAN: And on the other hand you are in the competitive world, I do not know, some of the things which will have to be thought of; this is a competitive world and can you interfere with the giving of these competitive practices or is everything to go by the Board.

MR. FRAWLEY: That may be, that may be and then the public benefits perhaps when they are half way to destruction.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And then it is all, the pieces are all picked up again and then the consumer pays during the re-organization.

THE CHAIRMAN: There seems to be only two ways of thinking, one a public utility pure and simple in which the principal consideration is public service to the public at a proper price.

MR. FRAWLEY: Yes.

THE CHAIRMAN: The other is competition. Let it be what it will to the public.

MR. FRAWLEY: And to themselves.

THE CHAIRMAN: And to themselves, destroy themselves if they will in their efforts to gain from each other. Now the question is, is there third position that can be taken up with good sense.

MR. FRAWLEY: Well there is a Nova Scotia of course and we will have to consider that and discuss it.

Well at the moment, anyway,

I am only seeking to make this point, that there is at the moment no assurance, that this idea of putting the one operation in the industry beyond the reach of the supplying companies, seems to have inconsistencies that are ludicrous in their results and that is all I say about that. I am not talking about chiselling now. I am talking about placing beyond the very reach the dealer and still having to go through the dealer to accomplish purposes from time to time in the market. Now that seems to be an inconsistency very much which will have to be remedied somewhere. Now how to remedy it is the real problem. The suggestion has been made that the oil companies might resume the retailing. Now that is fraught with all sorts of difficulties and complexities.

THE CHAIRMAN: And they say with very much greater expense to them and ultimately to the public.

MR. FRAWLEY: Of course they did say, they did say when they operated the service station in Calgary, they operated on a 4¢ spread. Now in fairness to them that 4¢ may have to be opened and they did not commit themselves on that at all.

THE CHAIRMAN: I think they said, didn't they, at least they say they didn't want to be in this variety of businesses, that the vendor of gasoline is often now in. I do not think Imperial wants to be selling sandwiches.

MR. FRAWLEY: No. Well other people of course, the Texas Company are operating sandwich shops

or whatever you call them, no, I guess they rent them.

THE CHAIRMAN: They rent them.

MR. FRAWLEY: Yes, that is right. The oil companies are not in any of these businesses at all, that is quite true. Well I do not know whether or not we should seriously say that the retailing should go back, that the oil companies should go back into the retail business. I am not suggesting that at all. I say that we have to try to devise some ways and means of doing what Dr. Frey says is a desirable thing, unquestionably a desirable thing, pass on the tank waggon cuts as and when they are made.

MR. HARVIE: By competition as between service station operators.

MR. FRAWLEY: Now I want to be sure that I understand that, competition as between service station operators; here on the 25th of October then, it frustrated Mr. Halverson. Then we saw the very opposite. I say the cuts in tank waggon must be passed on and it is in the evidence it was not passed on then, it was about stopped on the 25th of October.

MR. HARVIE: No, it didn't stop, competition forced it on.

MR. FRAWLEY: No, if we were to make a fair inference from the evidence, it would be that the Imperial Oil went out and saw that it was passed on. They over-stepped themselves and got in under the canopy and saw that it was passed on.

MAJOR LIPSETT: And was it not fair to say in Edmonton that the agreement eliminated the com-

petition and there put the half cent on to the operators.

MR. FRAWLEY: There was that anomaly there, that they thought "We will rectify that". Now I do not want to be going too far in saying that the Imperial, it is by inference perhaps and perhaps my friend Mr. Nolan can correct me if I am saying something which is not justified but I gathered that impression and it is like so many things, it may be what I heard discussed outside the evidence that is weighing with me but it seemed to me though that there was this, that it came about in the Imperial's station first and then the others followed suit. Be that as it may, as my friend says it was passed on. Now would it have been passed on, would it have been passed on at all if the Imperial had not over-stepped its own jurisdiction, if they did, and suggested to its retailers it ought to be passed on? I do not know.

I have not very much to suggest how it could be made more satisfactory. If these people are to be allowed to continue there in business, and if the supplying company is not interested in retail marketing, then I suppose always they will have to abide by whatever the consequences are in the service stations after they have made a tank waggon cut. As you have said Mr. Chairman in the evidence I have read, it seems to be on the knees of the gods whether a reduction to the consumer, which on the 25th of October was what Mr. Halverson desired, is brought about at all.

Now the other thing is the chiselling under the canopy.

Now Dr. Frey says there are some long spreads it is true and Exhibit "322" is the Exhibit which shows the tank waggon, the spread between the tank waggon and retail prices.

Now I went to the trouble, Mr. Chairman, of going through Exhibit "322" and picking out a number of points which we thought were representative and we have put those on a separate sheet of paper and it might be perhaps worth while if we filed it as Exhibit "322" (A) or gave it a new number now. It is the same evidence exactly but rather than go through the whole of Exhibit "322" I have had picked out a number of places.

THE CHAIRMAN: I think we will give it a new number. It will be Exhibit "741".

(STATEMENT PRODUCED HERE MARKED AS EXHIBIT "741").

THE CHAIRMAN: What is the description of that Exhibit?

MR. FRAWLEY: You see Dr. Frey said----

THE CHAIRMAN: You were going to give me a description of that Exhibit.

MR. FRAWLEY: Oh yes, it is typical spreads between posted tank waggon and retail prices as of the 1st of January, 1939 and then you might add, Mr. Chairman, retail prices as of the 1st of January, 1939 taken from information, taken from Exhibit "322".

THE CHAIRMAN: Yes.

MR. FRALWYE: Now before I call your attention to those spreads, it is all based upon what Dr. Frey says. He says in Volume 133, page 14,891 and

14,892, now I had called his attention to the Exhibit "322", I had called his attention there to Exhibit "322" and had pointed out the long spread, the spread at Red Deer for instance being 5.3¢, all as of the 1st of January, 1939, mark you, 5.3¢ over the 100% dealer; Lethbridge 5¢, Three Hills 5.7¢ and then Dr. Frey says this; it is on page 14,892:

"A. I should say that except in very isolated "areas and areas very unfavorably located with "respect to winter traffic there would not be "any particularly good reason for there being "any marked difference in margin between one "area and another. I should say that it would "be logical to look for about the same margins "in most every town. That it is our experience "that most of the margins in any particular area "in the United States are about the same whether "they are in towns or in the country and I "should think that it would be normal to expect "that here."

And at another place, he gives the reason for it by saying that the handling charge is not very high. Now where does he just say that, I seem to have the wrong reference but it may be---

MR. NOLAN: As to what.

MR. FRAWLEY: He says they do not have a high handling charge and there is no occasion for a high margin. I have his statement that the margin should be about the same but he goes at it again, unless he had said it before, you may have the reference to that

and we may as well get it. I think it was later on; oh yes, here it is, yes, it was when Mr. Nolan, yes, Mr. Nolan took up the question and it was in that discussion.

MR. NOLAN: Page 14,902.

MR. FRAWLEY: Yes, pages 14,901 and 902. The reference I want to give you is in Volume 133 then, page 14,901 and 2 and that is, without reading it all, at that time----

THE CHAIRMAN: This is different.

MR. FRAWLEY: Yes, this is 14,901 and 2 and there he says, the Chairman says at the bottom of page 14,901:

"Q. THE CHAIRMAN: There is reason why one "cannot understand that which is suggested by "Mr. Halverson, that the spread should be greater "in the country, where they are earning their "living out of other things?

"A. That is the reason that I came to the con- "clusion that I did, that I did not see any oc- "casion for any higher spread in general to the "country dealer than in town because in a very "large number of instances the country dealer is "engaged in other lines of activity in which pet- "troleum and its products is only an incident to "the rest of the business except it would be, in "the event that he were dealing exclusively as a "service station operator, in quite a remote area, "and I might say for instance that perhaps at a "point like Banff or Jasper, some place like that

"where my statement would be absolutely fallacious, "but I am talking about the typical situation over "the Province."

And then a little further on, I say:

"Q. MR. FRAWLEY: He just has a pump in front "of his hardware store or his grocery store, as the "case may be?

"A. Yes. I remember when I was running gasoline "for instance, I used to get about 2 cents a gallon "margin and I think that that would be my position, "my position was more or less the position of the "country storekeeper who was selling gasoline on "the side."

That is, I think, the reference that I wanted to give you, Mr. Chairman.

Now that is all, and then I want to give you some of them, I do not know that they will mean a great deal to you, Mr. Chairman, they do mean something because you know what the spread in Calgary is. Now my difficulty about that is, the value of this Exhibit "741" is that these are as of the 1st of January, 1939 and I did not, from the Exhibits which I filed yesterday,-take Red Deer for instance, Exhibit "740", Red Deer now has a spread of 5.90¢ as between the 100% dealer and the retail price, 5.90¢, whereas in the Exhibit as of the 1st of January 1939 Red Deer only had a spread of 4.3¢ over posting or 5.3¢ over the 100% dealer and that has been deliberately increased you see from 5.3¢ to 5.9¢ so to that extent these spreads may be

even greater than they were on the 1st of January but they are perhaps worth while looking at, some of them. We have a place like Blairmore with a spread of, as of last 1st of January, of 7.7¢ over the 100% tank waggon; Banff, 5.9¢ over the 100% tank waggon.

THE CHAIRMAN: If you found it to be impracticable to interfere with competition with refineries and marketers, what theory,-so that I may understand, what theory, what reasoning would we, on what reasoning would we interfere with any of these retailers who also are in this competitive world, in this competitive business.

MR. FRAWLEY: That is right, that is right. You go into that. That is the business now. It is the business all alone.

THE CHAIRMAN: And it is competitive.

MR. NOLAN: Dr. Frey tells us we cannot work out these service station spreads.

MR. FRAWLEY: I am going to say that very plainly. We tried it but then the Chairman is asking me something else. We cannot even tell you what it should be. Mr. Simpson, a very competent accountant, went out into 17 points in Calgary and what did he find, he didn't find anything of any value. He found of course one thing that they are making their living, that they are selling, except in some instances, I have some notes on that and I will discuss that when I come to it.

THE CHAIRMAN: I was just thinking back a little. We were saying a little while ago or at least

you were suggesting a little while ago that in Calgary and Edmonton they, you took 4½¢, that is the correct one, now that is the spread which the retailer gets, so that we may know that the reduction in the tank waggon means a reduction to the public----

MR. FRAWLEY: Yes.

THE CHAIRMAN: Not to the retailer but to the public.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And see to it without any collusion on their part, using that word not in any sinister sense, prevents the reduction reaching the public and seeing that the effect is given to the reduction that the person making it intends it.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now all right. I have just been thinking while we are carrying on with some other things, that I should perhaps not have been doing,-if competition is to govern, if there should be no interference for reasons which seem to you sufficient, in the field of marketing and in the field of refining, on what theory do we say "Well we really cannot do any price fixing up above but we are going to fix it for you".

MR. FRAWLEY: Yes. That is what that means, if the retailers in Blairmore are taking 7.7¢ on every gallon of gasoline for themselves, who is to say, well that is on Ethyl, that is on Ethyl, if these figures are correct and they are supplied to him by the Imperial he was getting 7¢ over posted tank waggon,

which would be 8.5¢ over what he was paying the 100% price as of last 1st January on "Q".

Well I suppose now, not anyone can do anything about it. If the citizens of Blairmore, who are we to say, that they are being rooked into paying 8.5¢ and we just think that is awful. Dr. Frey says it is too long. If Calgary is sound at 4½¢ and Mr. Halverson says it is sound, let us say it is sound and perhaps that does not make it so in fairness to Mr. Halverson, he says he thinks it is just about right but Mr. Simpson cannot tell us anything whatever. We have attempted to do it scientifically so that we could say that it is right but we do not know. It is cheese and chalk and we cannot do anything about it.

I have made a little analysis of what Mr. Simpson did and it is of interest to us as to what is being done in the service stations, but you cannot add them up and make an average but I think that is interesting, I will give you that in a moment.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Then Dr. Frey says 4½¢ is sound in Calgary but I go on to Blairmore and I find 8.5¢. Oh no, I have not much hesitation in saying that is wrong. Well what would he do, he is not a price-fixer, whatever else he is.

THE CHAIRMAN: No.

MR. FRAWLEY: Would he say by edict in Blairmore that that is going to be 5¢.

THE CHAIRMAN: He says in the course of time, in the course of time Blairmore will have to

change.

MR. FRAWLEY: Yes, I must not forget what he does say.

THE CHAIRMAN: Or all the business will go to Coleman.

MR. FRAWLEY: Yes. I saw in the paper the other day that thanks to the McGillivray Commission, not this Commission but another one, something happened down there, a mine closed up or something and all went to another mine or something. Now in the case of Blairmore, lots of people know that that man is buying it for 8½¢ less than he is selling it for.

MR. HARVIE: So that there is collusion in the sinister sense.

MR. FRAWLEY: In which case charges should be laid but that is----

THE CHAIRMAN: I am sure you will be glad to know, Mr. Frawley, that the mine you are talking about was in bankruptcy before the Commission started.

MAJOR LIPSETT: And did not adopt the recourse that that Commission recommended.

MR. FRAWLEY: This is just one more newspaper article.

THE CHAIRMAN: Yes.

MR. FRAWLEY: And I will subscribe to the proposition that everything one reads in the paper about this Commission or any other Commission is not perhaps quite correct.

MAJOR LIPSETT: While we are out during the noon hour, Mr. Frawley, you might think of this point of

view, it seems to me that this instance in Blairmore you have given and the instance in the increase in Edmonton possibly or possibly not, may negative to a large extent the competition under the present system. If there is one Imperial dealer and one British American and some other dealer in Blairmore, that there is really no competition and that it might be a very cogent additional argument for your proposition of yesterday or the day before that there should be a refinery price available to all persons who can buy at the refinery in reasonable maximum quantities, and then there would be an opportunity in Blairmore if the present men are getting too much, for somebody else to go into competition and make the competitive system effective. I have not thought it out.

MR. FRAWLEY: Yes, you see there is not much competition in Blairmore. You are quite right, Mr. Chairman, from this point of view, if everybody in Blairmore pays the same price for the gasoline. They pay today 18.5 less 1, presuming there are none of them foolish enough to pay split dealers, they pay 17.5 for 3-Star gasoline now and if they are enjoying the same spread they add to 17.5¢, 8½¢. Now what Dr. Frey says is, well following up your question, Mr. Commissioner, it is pretty easy for four or five people all buying at the same price to sit down and agree on a pretty long spread. Of course remembering what Dr. Frey says about that, in Blairmore the spread is 8.5 but that is only to the unsophisticated motorist, using that polite term.

MAJOR LIPSETT: We are not talking of a

standard at the moment.

MR. FRAWLEY: Yes, but he says in Blairmore there are people who live there who know what that spread is and if that spread is too long to them, they do not care what he charges the unsophisticated motorist but the citizen in Blairmore, this is Dr. Frey's theory, will go to Mr. Nolan's client or Mr. Harvie's client and buy a barrel of gasoline at 18½¢ a gallon, save them 7½¢ in Blairmore and that is why he says there is the sucker trade. He says that these people who know what they can do and do not mind the trouble of buying a barrel of gasoline and a little pump, well they do not pay the service station price.

MAJOR LIPSETT: That would simply mean there might be competition amongst the people who shop around but there is no competition among the people who pay the price.

MR. FRAWLEY: The travelling public.

THE CHAIRMAN: Well we will now adjourn for lunch.

(The Inquiry was here adjourned to be resumed at 2 P.M.)

2:00 P. M. Session.

MR. FRAWLEY: Just before passing then, Mr. Chairman, from the question of margin, Dr. Frey has something to say about it, and it is fairly complete. That is in Volume 131----

THE CHAIRMAN: This is retail margin?

MR. FRAWLEY: Retail margin. Starting at page 14,576-77 and part of 78. Now, he says - yes, that is by the Chairman -

"Q So that in the end then, are we coming to the views that
" 'Hands off service stations' is the wise policy from an
" economic standpoint?
"A There is only one that strikes me about the service
" station situation that may be very valuable. I am
" not saying that it is but it strikes me as a possibility.
" Some service stations in this Province are charging
" a very large margin. They cannot get those margins
" locally of course. If, for instance, you have a
" margin of 6 to 7 cents and I understand that there are
" places where that actually exists. Now the home
" people who know that operation certainly are not going
" to pay 6 or 7 cents when all they have to do is to buy
" a barrel of gasoline in order to get it at, at close to
" tank waggon or at tank waggon or close to it, or
" slightly below it in some instances."

Let me stop there. It is very plain with us any consumer can buy a barrel of gasoline at the posted tank waggon, like at the farmer price.

" Now that type of operation is strictly for the sucker
" trade, and the sucker trade is you and me and the likes

" of us when we are out touring and we do not know the
" immediate local situation. I should say that that
" type of thing is something that one cannot countenance
" without comment and my problem is, what can be done
" about it. It was suggested to me that possibly you
" could establish the margin of operation and when I looked
" into that I found that there is no base; the difference
" in distribution has different bases for that filling
" station cost, that is the laid-in cost to the service
" station, the difference may not be great but nevertheless
" it is not uniform among the companies operating, so it
" looks to me there as though, if there is anything that
" can be done, it would be to throw the light of public
" opinion on what actually constitutes a proper margin of
" profit, that that type of operator is taking, and I
" cannot see very much other than that that can be done.
" It would then be up to the buyer to decide whether he
" would take that or to try to get the lower price, that
" is to say, if the posted price also carried with it some
" suggestion of the margin, where the margin is longer
" than usual, it seems to me that the public would be
" adequately warned and that much of the criticism of
" the price of gasoline might be removed, simply by
" putting the light of public opinion on it, in which it
" would be, in which it would hardly be expected that a
" very long margin would stand.
"Q That is to say that some requirement should be passed,
" requiring that there should be posted on the pump the
" price at which that product was sold to the dealer?
"A I do not feel that I am prepared to recommend that.

J. J. Frawley, K. C.

" I am just suggesting that it is one of the things.
" Perhaps the industry could suggest something better
" but it is just one of the things that occurred to me
" that might be used in order to reduce these unusual
" margins in some peculiar localities.
"Q That is posting?
"A That would require the margin to be posted . You
" would post three prices; you would post the price at
" which it was sold, you would post either the difference
" or the price at which it was bought and the tax and then
" the consumer would know what he was paying."

Now, Dr. Frey you see from that is not recommending it. He is only suggesting it. Later on again I remember from his seat in the court room he said again "I suggested that. I just suggested it." You know it might be helpful, and I am prepared to go a little further than Dr. Frey, I am prepared to submit that that should be a recommendation. That that is a good idea, particularly when we cannot go out and scientifically say "Well, 4½ cents is, we have applied our minds to it and 4½ cents is right. Anything else is too little and anything more is too much." Frankly, we cannot do that for the reasons I will in a moment give you when I review Mr. Simpson's evidence. So we are left with what Dr. Frey calls a suggestion and I am bold enough to say is a good suggestion and is one that would have the service station operator post (1) the price at which he buys in the City of Calgary, that would be 15 cents or 16 cents, as the case may be. Of course, in 95% of the cases it is 15 cents. The next would be 4½ cents. Well, you would not need that.

J. J. Frawley, K. C.

You would not need a whole line of figures. The next thing would be 15 cents plus 4½ cents, in other words, 19½ cents, and the next thing would be 7 cents, and the top price would be the total. That is a sensible, workable and reasonable suggestion to require that kind of posting. A triple posting of that sort and that would throw the light of public opinion - and that is the point that Dr. Frey makes in his suggestion, it would indicate to the passing motorist or the townsman what margin the retailer was getting. And then you would still have the shopper, I suppose. You would still have him saying "Well, Mr. Jones, that is too much and I do not think I should pay that." But there are certain types of men who would not appeal that way at all. As far as I am concerned, I would simply go in and pay it. There would not be any idling or quarrelling as far as I am concerned, and there are a lot of others. But there would be an awareness on the part of the public as to what that man was getting. That is the only thing I can suggest and I think that might then take care of the long margin, the extra long margin. Not the chiselling, not this price cutting under the canopy to varieties of consumers. But just what the going service station price was. There still can be chiselling under that.

MR. HARVIE: Your suggestion is not that that 4½ cents is purely illustrative?

MR. FRAWLEY: The 4½ cents is illustrative. Yes, it is a little more than that. On the evidence it is a fair spread for Calgary and Edmonton.

MR. HARVIE: Your suggestion is that it should be whatever spread there is?

MR. FRAWLEY: Yes, take the 4½ as the right

spread, then there is not much purpose in Calgary becuase there is no evil in Calgary. But in Blairmore it would throw a light on the 8½ cent margin which presumably there is something wrong with. Or in Red Deer the 5.9, which is equally wrong.

MR. COMMISSIONER LIPSETT: Your recommendation would be really an extension of what is going on at present where the tax is put in separately on a good many pumps?

MR. FRAWLEY: Oh yes. There are a variety of ways. There is nothing uniform about that. Some post the price exclusive of tax and others post two prices, the price plus tax without any grand total. Now, the only other thing that is worth while is to review very briefly what Mr. Simpson did.

THE CHAIRMAN: What is the requirement, if any, right now in posting?

MR. FRAWLEY: There is no requirement of posting at all of any kind or sort.

THE CHAIRMAN: All right.

MR. FRAWLEY: Now, Mr. Simpson made a survey of 17 Calgary service stations and that is Exhibit "608". And that survey shows that less than 40% of the total revenue is derived from the sale of gasoline at the 17 stations, the balance being derived from the sale of lubricating oils.

THE CHAIRMAN: How much?

MR. FRAWLEY: Less than 40%, a little bit less than 40%. It is Exhibit "608". A little less than 40%, I think 39. something of the total revenue is derived from the sale of gasoline, the balance being derived from the sale of lubricating oils, greases, automobile accessories.

tires, batteries and revenue from repairs and washing and greasing and so on. That being so, you will see, Mr. Chairman, that it is impossible to arrive at what would constitute a fair spread on the retail handling of gasoline alone. Furthermore, even on the entire retail operation, gasoline plus other revenue, Mr. Simpson's survey shows such a wide fluctuation in profit performance, as between stations, that it is impossible to determine what an average operation is. If there is any value in an average, and there would seem to be, because if you take the best, well, it might be difficult-----

THE CHAIRMAN: Is there no way of arriving at what the service is reasonably worth to the public? I mean if you have 100 more service stations than there need be it can be easily seen that the cost of operation of a particular one goes up because he has not got the volume going through his place.

MR. FRAWLEY: Surely.

THE CHAIRMAN: Now, I just was wondering, there might be nothing in it, but could it be approached from the angle sometimes used in utility operation: What is the service worth valued by what it costs in other places where there is definitely free competition.

MR. FRAWLEY: You see, that is difficult. The Texas Company did give us some spreads in various cities of the United States but the volume there must be very much larger, certainly the total volume is. Whether the volume per station helps or not.

THE CHAIRMAN: The difficulty is the public pays for the service. All right. Must they continue to pay for a great duplication of service which can only be

continued at a cost to the public and with no great advantage to the man in giving the service because there just happens to be too many of them. There again it is a matter of competition, I suppose you say. Who is to say who is to go in and who is to stay out?

MR. FRAWLEY: It is true if the service stations were halved in Calgary and the volume at each doubled, something of that sort, well some of these costs would be down. But then, you see, there is a practical impossibility. We have not any one station selling gasoline alone. If we had we could go to that one and if he had a reasonable volume we could try to draw some conclusions from that. But, of course, we have some. There is one here that had 81% of his gross revenue from gasoline alone. That is rather interesting. That is station A in this Exhibit. 81% of the gross revenue was derived from the sale of gasoline and that was 192,000 gallons. The net profit on the sale of gasoline was $3,211.64.

THE CHAIRMAN: What is that Exhibit?

MR. FRAWLEY: Exhibit "608". That is a summary of the operations of 17 stations. That is Station A I am referring to. Now, before I comment on that, I will go to another station, Station H. 56% of the gross revenue was derived from the sale of 56,000 gallons. About a quarter, you see. 56,000 gallons of gasoline with a net profit on the sale of-----no, a net profit on the whole operation. The net profit earned by the station on everything was $2,335.04. So let me go back and correct that with respect to Station A. The net profit at the station was $3,211.64 and the net profit at Station H was $2,335.04 . Now, here

are a few comparisons, comparing these two stations, and the additional handling of 135,000 gallons by Station A brought only an additional net profit of $900.00. At another station, Station C, only 20.32% of the gross revenue was from gasoline and the total volume of the gasoline was 135,635 gallons. Now, the net profit there was away up, $11,791.77. It is the best station by far, by far the best station of the whole 17 surveyed. But the total pay-roll there to operate that station was $10,318.00. So that it is obvious that the non-gasoline branches of that station supplied the revenue and the profit. So we have those three stations. We had one with a large sale of gasoline, and nearly all gasoline and has a profit of $3,211.00. But then we have another station, where he had only about a quarter of the gallonage and about half of his business was from gasoline and he had a profit of $2,335.00. And that seems to be remarkable. You take that first station, and we find that they sold 135,000 gallons more than did Station H, but he only had an additional net profit of $900.00. Now, there is another station, Station P. 18.43% of the gross revenue was gasoline. The volume was only 30,385 gallons and the net profit was $2,325.10. You see, there was only about $1,000.00 difference in his net profit from the man who sold 192,000 gallons. This man only sold 30,000 gallons, a very small gallonage, and the revenue from other than gasoline, as in the case of the very large station, the biggest station, contributed the profit. Now, you might say "What does that mean?" That just sounds like hodge-podge. It means you cannot draw any conclusions at all,

and that is just what it does mean. And that was the great difficulty in endeavouring to fix a retail margin based upon the needs of the operators, because there are as many different operators as there are kinds of business. We have a station with a large pay-roll. It is a great big business, in other words. They make their money on greasing cars and washing cars and repairing cars. A large repair shop. We are not interested; We are not concerned, you see, and we have not been directing our minds to and we are probably quite legitimately unconcernod with the cost of greasing a car; the cost of repairing. We certainly have not attempted for a moment to get into those kind of things.

THE CHAIRMAN: Any more than we have been concerned with all they do in selling over-alls.

MR. FRAWLEY: That is right. If they wanted to engage in the sale of over-alls or a soft drink stand or anything you like, We have tried a difficult task. We have tried to follow the gasoline through from the well to the pump and tried to have some appreciation of what the cost and profit is in each operation. It is just tremendously difficult and it is more than ever difficult it seems, because after all,--- well, no, you see in a sense it is the same thing. When I point my finger at Mr. Halverson's marketing spread, well there again that is arbitrary because it is the spread for handling gasoline we are looking for and we find that that is mixed up with spreads on selling lubricating oil, in distributing his Atlas batteries and his Atlas tires and so on and so on. But in this service station there is, perhaps, no better

example----

THE CHAIRMAN: What in the net result do you think about it?

MR. FRAWLEY: I say all we can do is accept Dr. Frey's suggestion of triple posting. Posting what the man pays and let the consumer apply his own mind then and his own judgment as to whether he thinks he is being charged too much in the way of a service station spread. And then I have one other suggestion -----

THE CHAIRMAN: And do you think that sufficiently provides for what you seem to think was important, the passing on of any tank waggon reduction to the consumer?

MR. FRAWLEY: No. That is my other suggestion. That is a thing apart. I first say to get away from this large spread - it will only do limited good, because what would it do? It might in Blairmore, where they are apparently operating, I would judge on a price of 8⅕ cents spread mark-up over the 100% dealer price. Surely that would have some effect. Surely in a place like Blairmore on the main Spokane highway you would think that might have some effect because you see there is always the danger that a man will go on, the tourist will go on to the next town and pick up his gasoline requirements. It is to be hoped it will accomplish something.

THE CHAIRMAN: Of course, the tourist will not know but what it will be worse in the next town.

MR. FRAWLEY: That is true. But triple posting will probably bring about some good. It would react, I was going to say, on the conscience, yes, I suppose on the conscience of the service station dealer. He might think,

if he was forced to publish to the world what his spread was that it might shrink it some. That only takes care of this long posted spread. It has not anything to do with chiselling and frankly, as far as chiselling is concerned, I am just simply nowhere. I simply say I do not agree frankly with the regulation which says only one price and which stops Mr. Plotkins and closed out Mr. Plotkins' station for two days. Why do I say that? These regulations were framed apparently and are still functioning in an atmosphere of status quo. Leave everything as it is. And I quite frankly say that that might be all right for the established companies but no good for the companies that are seeking to become established. I am not going to labour that. That is a position I have made clear. I wonder - you know, in view of the discussion we have had this morning, if I have been through the use of language conveying an impression that I am going a further distance than I really intend to go in my submission to the Commission. All I am seeking to do is to see that the competitive weapons are left in the hands of the companies seeking to assault the gallonage. There is only a limited amount of gallonage. Mr. Mayland's company, to use him because he is an obvious example, he is right on the threshold of the industry. He has not been in the industry at all, we must be frank about that. He has not been in the gasoline business at all. Now, he is. He is now making his own requirements of all three grades. It is then Dr. Brown says a man gets into the gasoline business. Now he is in there. We have heard Mr. Harvie talk this morning about the normal increase in business from year to year. But that is not what Mr. Mayland is after. He is going to get his share of that

increased business but he is also going to assault the gallonage of his competitors, and I say that we should not take the weapons of competition away from those newcomers who are trying to assault the gallonage. Mr. Halverson has his offensive weapon just as Mr. Mayland. I desire neither to make it so that Mr. Halverson will not be able to properly and legitimately defend his gallonage. I stop there, Mr. Chairman, and I say if Mr. Halverson became punitive, if he turned on his competitors to rend them with his wealth, with his South American wealth say, then somethihg would have to be done about that, and that is, perhaps, where the Board would see that punitive measures were not taken.

THE CHAIRMAN: Mr. Frawley, you drew a line at encouraging the introduction of Montana crude as a competitive weapon because you felt that you had to give some measure of thought to the producers. Now, supposing all the devices one can think of, other than the introduction of Montana crude, were brought to bear upon the price leaders, is there not one other thing that could be done when this price of gasoline goes down and down, yielding to competition, is there not something that inevitably follows that the price of crude, thinking of the owner of the crude, would not you think he is going to suffer in the drop in the price of crude?

MR. FRAWLEY: Of course, my whole effort has been directed to----

THE CHAIRMAN: Do you think that will be all absorbed by the refiner and the marketer?

MR. FRAWLEY: Everything I have pointed to now is what Mr. Halverson has pointed to with such pride,

the drop in the price of gasoline apart from the drop that has come about through a drop in the price of crude. You will remember probably that I tried to make the point with Mr. Halverson that he had not been responsible in any large measure for the drop-----

THE CHAIRMAN: But say you succed, through encouraging competition in this Province, you succeed in driving the price of gasoline down. Now, that is the whole purpose from your standpoint. And it is down. It keeps going down.

MR. FRAWLEY: But it hits the bottom. It just does not go down to 5 cents a gallon, Mr. Chairman.

THE CHAIRMAN: It goes down to where somebody is going to stop going any further. I say when you get down there is not the next thing a reduction in the price of crude? Would not that follow?

MR. FRAWLEY: No. I would not say that this should be left entirely to the competitors to work it out for themselves. There is going to be some body with power to intervene, with power to cushion. There is not going to be any knocking it down and down and down till they have taken it all out of themselves and they start taking it out of the producer.

THE CHAIRMAN: We have not come to a Board yet. You have been talking about competition being so encouraged that the price leader is bound to reduce the price of gasoline to the public.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now I say, just letting competition have its way, which is all we are presently talking about, does not that lead to a drop in the price of

crude?

MR. FRAWLEY: No. You see, at the moment my premise is that there can be a shrinkage in the spread. My premise is that that marketing spread can be shrunk, that Mr. Halverson can take it out, not exactly out of his profits, but that he can take it out of the money he is spending. He can reduce his costs.

THE CHAIRMAN: You say the old story that the producer's position is fixed by the competitive point at Regina, and it does not matter what happens gasoline.

MR. FRAWLEY: That is certainly the premise and foundation of what I say.

THE CHAIRMAN: There is certainly plenty of evidence to support that view. But does that appeal to you as a reality that you get the price of gasoline down far enough and that crude is not going to be affected?

MR. FRAWLEY: Well, of course, there might be an attempt to and a desire to bring the price of crude down, but that then would raise a totally different consideration. I am not urging it down to that point. I am urging it down on a shrinkage in the spread. I am contending before this Commission that Mr. Halverson should not have spent the $1,021.00 to sell that amount of gasoline he sold last year, but I am helpless. My experts come and look at these costs and they do nothing about it. That is why I am helpless.

THE CHAIRMAN: They say it is all right.

THE CHAIRMAN: They say they are all right.

MR. FRAWLEY: What did I say?

MR. NOLAN: You said they didn't know anything about it.

MR. FRAWLEY: In answer to my response, they didn't do anything about it.

MR. NOLAN: They said it was all right.

MR. FRAWLEY: All right, words mean nothing to me. They gave it their benedicition, they said it was fine. Now we go on from there, that is my problem but I am not content to leave it for ever there and the Commission, I recommend that this Commission should recommend that somebody will be set up which will have something to say about these things, which will watch these costs and so when I talk about Mr. Halverson reducing the price of gasoline, it is because he will reduce his costs, not his cost of crude which is one of his costs, but all these costs which appear here in Exhibit "659", the $71,000.00 of idle service station property; $138,000 of sales expense; $574,000.00 of handling costs and so on.

Now that is at least what I am talking about and getting it down into cents per gallon, the 3.43 cents, that is what I am shooting at, the 3.43 cents in Exhibit "734" can be shrunk, in my humble submission.

MR. NOLAN: Mr. Chairman, Mr. Frawley is going to set up a body which is going to do that which Dr. Frey refused to do.

MR. FRAWLEY: If I had Dr. Frey here all the time for 1938 and 1939 and 1940 and 1941 and I could ask Dr. Frey periodically for his opinion that would be all right

but I am suggesting a continuing body to examine these costs closely and often, as often as is necessary without undue harrassment of the industry, so that the public will be satisfied it costs 3.43 cents every year to sell the gasoline that Mr. Halverson is selling, I mean a gallon of gasoline.

THE CHAIRMAN: 3.43 cents?

MR. FRAWLEY: 3.43 cents, that is that large amount called "Marketing Expense". It is the comparable figure to Exhibit "659" which sets out that the total marketing expense was $1,021,694.80. Now then the company has, by using the sales realization method ----

THE CHAIRMAN: Where do you get that 3.43 cents, what Exhibit?

MR. FRAWLEY: That is Exhibit "734".

THE CHAIRMAN: 3.43 cents per gallon?

MR. FRAWLEY: 3.43 cents per gallon.

THE CHAIRMAN: To market.

MR. FRAWLEY: To market, yes, it is Exhibit "734".

THE CHAIRMAN: All right.

MR. FRAWLEY: I was looking for the Exhibit itself.

MR. NOLAN: That is the number, Mr. Frawley, I have a note of it.

THE CHAIRMAN: What he said, of course, is when I have taken that sum ----

MR. FRAWLEY: Yes, it appears on Exhibit "664" as well as Exhibit "734", oh, I see, it actually apnears there because this is the company's own Exhibit. Well it is Mr. Cottle's Exhibit. You will see there that the company has set down opposite gasoline, marketing spread, $1,093,265.80

or 5.12 cents per Imperial gallon, marketing spread.

The next column; marketing costs, gasoline now only, $731,727.85 or 3.43 cents. The balance of $169,000.00 being profit before income tax.

In other words Exhibit "734" which I have been talking about a moment ago is just a re statment in columnal form of, a breakdown really.

Now when I am talking about the pressure, the competitive pressure which will be placed on Mr. Halverson, it will for the purpose or with the object so far as I am concerned of endeavoring to have him, as a result of the competition which he will experience, make economies, shrink his costs and pass on the economies to the public and that I think I can say quite consistently without any reduction in the cost of crude. That is another thing altogether. That is going into another branch of his costs altogether and I am not directing myself to that. You see in Exhibit "728" there the company indicates where the reductions have been since 1936, since February 1936. This Exhibit indicates that there have been reductions in gasoline, in regular gasoline of 7 cents and that the reduction in the cost of crude has been only 3.70 cents. That is the point, so that the company, for some credit to itself, I take it, points to the fact that the difference of 3.30 cents had been due to cutting of costs and generally just to the effect of the competitive forces, the effect of competition, I think is the very word Mr. Halverson uses, and it is to that I have been directing my attention in suggesting that as a result of competition, as a result of the competition which he will get from newcomers and from the old lads like Mr. Harvie, that the price will be dropped, and I say that the Government

is not going to do anything about it. It is from the competitors and I for that reason simply want to not take Mr. Mayland or Mr. Plotkins or Mr. Harvie for that matter, take their ammunition away from them when they go out to assault Mr. Halverson's gallonage and neither does anybody want me to do that. That is what the companies want. All I say is, "Let us take some interest in the thing, let a regulatory body be set up to take some interest in this thing," rather than let it all be done according to the rules approved by the companies themselves.

Now I have one other suggestion and that is to see that the companies are not frustrated, - you put that to me, - Mr. Chairman, and my suggestion there is that the companies should operate pilot stations. Now there is not a great deal to be said about that and I will tell you what little there is to be said about it.

In Volume 133 Dr. Frey deals with it on Page 14,879. There is so little that it is hardly worth calling your attention to but it is all there is. He says:

"Q Well there is not any law against him going into
" the retail business just here and there, sort of
" outpost station'

perhaps just a couple of questions on Page 14,878 I should read, the page before:

"Q Well he is certainly, under this state of affairs,
" in a dilemma because he wants, the whole purpose of
" his cut, which is the kind of cut which was made the
" other day, must reach the consumer to do the work for
" him, for his company for which he made the cut and
" then on the other hand, you say he may be accused of

" conspiracy in restraint of trade, and then you say he
" just does not do anything about it?
"A He is not in a dilemma. He really has no right under
" our law or at least he feels that he has no right,
" there has never been a decision on whether he does have
" or does not have that right, - but the possibility of
" being on the wrong side, by trying to force dealer
" prices, is so great, that he prefers to divorce him-
" self from such action and to that extent avoid the
" consequences of being brought into court on an anti-
" trust violation.
"Q Well there is not any law against him going into the
" retail business just here and there, sort of outpost
" stations, to indicate to the public, to pass on to the
" public, insofar as he is concerned, the cuts which he
" desires to reach the public?
"A Well some companies, they actually thought about doing
" that, establishing what you might call "pilot stations".
"Q Yes?
"A But they are practically non-existent; in a few
" instances where companies have not disposed of their
" filling stations, and I am talking about East of the
" Rocky Mountains, the company prefers to follow the
" retail market rather than to establish the price itself
" and in Washington for example, the Standard Oil Company
" of New Jersey, as an example, owns that very large
" filling station on Constitution, down near fifth,
"about the nearest station to the Capitol Building."

and so on.

Now that is all he says but

Mr. Stevens discussed it and it seems to me that I have support for the submission which I make, that the Commission might consider ---

THE CHAIRMAN: Where is Stevens?

MR. FRAWLEY: Stevens is in Volume 132, I gave you that this morning, I think, Volume 132, Page 14,703, and then if you are just making a note you might make a note of Volume 132, Page 14,689 and it was at that page, Page 14,689 that in answer to your suggestion that it was time the Industry had some way of combatting these dealers, that Mr. Stevens admitted that, that we must have someone to control it. There was no other suggestion then that was made by Mr. Stevens and I now make the suggestion to the Commission that it might recommend that the Industry itself, that the supplying companies themselves operate pilot stations for the purpose of having in mind just this point at the moment, to see to it that when tank wagon cuts are made because the evidence is full of this proposition, I mean Dr. Frey says so, Mr. Halverson, I think, admits it, tank wagon cuts must be passed on, that must be fundamental.

THE CHAIRMAN: Does your regulation go the length of opening up more service stations that are to be company pilot stations.

MR. FRAWLEY: Oh, I would not think so. They have a tremendous lot of stations and they can surely take one of those, instead of leasing it, they have lots of stations, No, I would not think you need to add to the number.

MAJOR LIPSETT: You are suggesting or you rather suggested earlier that the Government should take on a station in Edmonton and in Calgary and try it out themselves. Now

the fair way of doing that, I suppose, would be in Calgary and Edmonton and in three or four outlying places to do it.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: But from what you have been saying now is it not rather obvious that neither a pilot station run by the Government nor a pilot station run by a company ould operate as cheaply as a present station, if in fact the present stations are having 40 or 50 or 60% of their revenue from things other than gasoline.

MR. FRAWLEY: Yes.

MAJOR LIPSETT: If you ran a pilot station to be comparable to the chances of profit at all, would you not have to have all these extra things.

MR. FRAWLEY: Well that is the difficulty, that is the difficulty. I do not think a company could operate any more cheaply, and not as cheaply, you see I do not think there is much secret about it, I do think it is an open secret, that one of the main considerations in this Province why the companies went out of the service station business was because they were met by these labor, this labor legislation, the minimum hours of work, the minimum wages and minimum hours of work. Now we know as a fact that the service station operator will go on and he will operate with his boy, he will do most of the overtime himself and in that way they do things that a company could not do.

MAJOR LIPSETT: Then can you get any sort of test from a pilot station if run by the Government or by a company?

MR. FRAWLEY: We may not.

MAJOR LIPSETT: I am just asking.

MR. FRAWLEY: I realize the difficulty of it. If

they cannot operate a station then there is no sense, they will not operate it, if they cannot , at least if they cannot at least operate it on a 4½ cents say, and that seems to be the fair spread in Calgary, that is just one more suggestion that cannot be done.

THE CHAIRMAN: Everything seems to have an answer.

MR. FRAWLEY: Oh, yes, of course.

THE CHAIRMAN: And then when you think you have the answer somebody finds an answer to your answer.

MR. NOLAN: Dr. Frey, Mr. Frawley and Mr. Chairman, made a general statement on the question of filling stations in Volume 133, at Page 14,876 and he says:

> " I do not know what the philosophy is on that but the
> " whole movement in the United States has been to
> " divorce the filling station from the wholesale operator
> " and not to permit the wholesale operator to dictate
> " the terms of sale of the filling station."

It is just the filling station.

MR. FRAWLEY: Yes, I would not submit it at all except for the perfectly ridiculous position of having something in between there that defeats the purposes of the supplying company.

THE CHAIRMAN: I think I read in some of the American magazines dealing with Petroleum of a law either in existence or mooted, to do just as Mr. Nolan says, to do it by law, that it is desirable to divorce the wholesale companies from any control over refineries at all.

MR. FRAWLEY: You mean over service stations.

THE CHAIRMAN: Over service stations, and they seem to think that there was some evil about it. I am very

hazy now in what I am saying because I just read it as a matter of having done a lot of reading here and there on matters of general interest in the oil world but certainly I read that somewhere. Do you know anything about it, Mr. Plotkins?

MR. PLOTKINS: Yes, the situation in the United States is this, the Independent Oil Men of America, an association of oil men, independent, what they call themselves independents, took this stand that the big companies that are partially or fully integrated, due to the profits of one section keep themselves in business in another and they have been asking for the last three or four years to get the United States Gowernment to pass laws to divorce once one from the other and make them absolutely distinct and of course, if they were that then theoretically they could not apply a profit from jobbing to refining and vice versa. Now that is the position at the present time in the United States.

MR. FRAWLEY: I wonder what it has to do with this question of service stations, they talk about not having anything to do with the service station operation but we know they have a lot to do with it. They are right in there, keeping the props under the service stations, that is the other side of it, they have to have their outlet, they have to have their gallonage and they are right in there and then again they say they are not.

MR. PLOTKINS: The answer to that, Mr. Frawley, is this, the companies have experimented for years and they found that the average independent service station operator is not a business man and when he was left to himself he could not market at a profit and the industry had to absorb the losses of poor credit and the cost was so great that they

found finally by experience that the cheapest way out and the solution was to control sufficiently the business so as to have it on a more or less cut and dried routine basis so that the operator would be called upon to perform only minor functions. In other words he would not be called upon to be a financier and real estate man and a lot of other things and the result is today the gasoline is being marketed at a smaller spread than it has been in the past. We as a small company are faced with the same situation. I did have a dream once that we might make independent oil men standing on their own feet but it couldn't be done because the average man today engaged in the business is not educated enough, he does not apply himself sufficiently to master all the different problems which he has to deal with in even a simple little service station and the result is we are forced really to dominate the position by saying, "We will make you an agent, we will provide you with your goods, we will provide you with the records and all you do is to enter up on those records your sales", and "if you do not deposit daily we will close you out because we are going to suffer and our costs are going to go up", so all those things are the result of experience.

MR. FRAWLEY: I wonder where Imperial comes in. They say they have nothing to do with the service station operation except to collect a little rent for it.

THE CHAIRMAN: And so does the British American.

MR. PLOTKINS: They have a lot to do with it in this manner, they set up the station, they provide the goods, they more or less influence the price.

MR. FRAWLEY: Those are all the things they say they do not do. They say they just sell him the goods and they

are his goods and they charge a rent and if that rent is not enough they just charge it up to the marketing expense. That is what I understood,

MR. PLOTKINS: True, but if a service station man had to provide his own station and had to take care of all the problems and he had to finance himself, then he would have quite a time, in fact he could not make it. Today the companies finance him because they provide the goods on a load to load basis. They go in there and show him how to check up and if he does not pay them they close him out. Now that is a big degree of control; in other words they operate under the big companies.

MR. FRAWLEY: Now I must confess that that is a little different from what I got from Mr. Halverson. That may be so and I am not suggesting Mr. Halverson was not sincere about it.

MR. PLOTKINS: Mr. Halverson has told the truth but you do not understand it the way he means it. He tells you he has nothing to do with the selling price or the conditions of sale. He is not out to influence them because he says, "Here is the price you are going to pay for it and here is the rent and here is the condition," and it is only within that orbit the operator has to work.

MR. FRAWLEY: He has not a price for the operator, he has two prices if you like, but it is the same except for the freight differential, so he does not go to the service station operator and dictate the price.

MR. PLOTKINS: If the price is 4½ cents and the man is called to pay a cent and a half rent he is only left 3½ cents.

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MR. FRAWLEY: You are starting at the wrong place. Mr. Halverson has nothing to do with the 4½ cents. All Mr. Halverson has to do with now in the City of Calgary is the 15 cents, that is the price you pay him for his gasoline. Now you pay him some rent, you do not need to pay him the economic rent because he will absorb the balance, it is just as simple as that and the retailer sells it for whatever he likes.

MR. PLOTKINS: Well, who do you think has something to do with the 4½ cents?

MR. FRAWLEY: The retailer and I would like to be told if there is anything different even at this late stage. Mr. Halverson made that statement. That is abundantly clear, that Mr. Halverson has nothing in the world to do with the retail margin. Now if there is anything spread over this record it is that and I hope that is the fact and I am certainly accepting it as the fact.

Now those are my three suggestions with respect to the retail operation. It seems from Mr. Simpson's evidence a fixed margin cannot be recommended even in the City of Calgary. We have, of course, some advantage from that on the evidence, 4½ cents seems to be fair and then in the more sparsely settled places Dr. Frey does not see any reason for a longer spread.

THE CHAIRMAN: You say a fixed margin should not be recommended?

MR. FRAWLEY: A fixed margin cannot be recommended definitely because we have no support for it in the analysis which we have attempted to make of the 17 stations in Calgary. Now that is right and it is only perhaps a circumstance that

we are fortunate enough to have 4½ cents given to us as being a fairly good price.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Secondly I suggest that Dr. Frey's suggestion of triple postings be adopted and then thirdly I say that the companies should operate pilot stations to establish a fair margin and to prevent the frustration of the supplier's tank wagon cut.

MR. HARVIE: You also said that you had suggested the elimination of the regulation requiring one retail price.

MR. FRAWLEY: Oh, that runs all through.

MR. PLOTKINS: Have you ever thought what is going to happen to that company, any one company that starts a pilot station and wants to put the price down, what is going to happen to their business?

MR. FRAWLEY: I am not suggesting that anybody put the price down. Perhaps I have not been understood. Perhaps Mr. Plotkins has not been here long enough to understand. I say simply that there is a ridiculous and an anemalous situation where the supplier puts out of his own hands and out of his own control the passing on of the tank wagon cuts which he orders and that is the fact today. We had one cut on the 25th of October and now something has to be done in my submission to prevent that silly situation of the tank wagon cut being completely thwarted.

Now I say, in view of the fact that Mr. Stevens said that if somebody, if the spread was to be maintained somebody had to enforce it and I suggest then that the Imperial Oil Company for instance, operate a private station, one in Edmonton and one in Calgary. I am not

talking about going into the service station business at all ----

MAJOR LIPSETT: Supposing, Mr. Frawley, the Imperial started a pilot station in Calgary and in Edmonton and it turned out it cost them 5 cents a gallon to market in those pilot stations, where does that lead us to?

MR. FRAWLEY: And I would not have anything to do with the scheme at all then, Mr. Commissioner. I have no other suggestion. If they cannot operate as cheaply as the individual company, then I do not want any pilot stations and I will let this thing go. I just give in to the evil which I say exists whereby the dealer has it in his hands to thwart the supplying company, has it in his hands to thwart the company when they order a tank wagon out.

THE CHAIRMAN: Yes, but I donot know, I think perhaps you are unduly apprehensive about how long a service station dealer would thwart the supplier of his products.

MR. FRAWLEY: Yes.

THE CHAIRMAN: I think he is generally very amenable to their suggestions.

MR. FRAWLEY: I think so too but I can not say it very earnestly from this evidence.

THE CHAIRMAN: I mean is it not an implication from the relations between the parties, after all Mr. Halverson does not say, as I appreciate his evidence, that he has no influence over his dealers but that he does not fix this price at which they sell. He is not a policeman about their policies and so on.

MR. NOLAN: His actual words were: "We have to use a bit of persuasion".

THE CHAIRMAN: What page?

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MR. NOLAN: Volume "132", Page 14,712, Let me check it up. I have just my notes.

THE CHAIRMAN: Let me have that again, because I want it. You see, there is a recognition of an influence at least, Mr. Frawley.

MR. FRAWLEY: Where is that, Page 14,712?

MR. NOLAN: Yes.

THE CHAIRMAN: Volume 132.

MR. FRAWLEY: Well now ---

THE CHAIRMAN: Does the transcript follow your notes pretty well?

MR. NOLAN: Well the note is larger and longer.

"For instance we assumed that responsibility yesterday. "We contacted with every dealer we have in Calgary and "Edmonton and of course there is a point beyond which we "cannot go. We sell the products to these men. It is "their property. We can of course perhaps say to them "'Unless you do so and so we will get a new man', but we "do not like to be too dictatorial with these men "because the service station operators at these two "Cities, it is not a particularly fine job he has got, "and if you take him out and get somebody else it is "not good business. We have to use a bit of patience "and persuasion with these men. Now at one time the "company operated, it is true, and we charged a certain "margin and there was no exception. It was an expensive "way of doing business to begin with; it cost more than "our present method and in the second place it was not "practical marketing for this reason that our service

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"stations, company operated, charged a fixed retail "price and we were losing business to other dealers "that did not do so and we have to recognize the facts "in our operations."

THE CHAIRMAN: I think that covers it, Mr. Frawley, there is no doubt that they do not want to be dictatorial and do not want to be interfering and so on but I do not know, I have no worries about their power, if the major companies thought it proper to exercise it, or good business to do so.

MR. FRAWLEY: Well I am very happy to accept that.

THE CHAIRMAN: Well do you not think that is the implication from what Mr. Nolan has just read so far as his company is concerned and he has just given you quite frankly an instance of just having done that very thing, called up the operators and said, "We would like you to do this", and it was done.

MR. NOLAN: Yesterday, yesterday, not years ago.

THE CHAIRMAN: Yes, yesterday.

MR. FRAWLEY: That is what I was talking about, yesterday. I said he did it and if he had not done it that would not have been passed on.

THE CHAIRMAN: As I appreciate it now, he is not saying, "These people are not so free from us." He is admitting that if it is needed they will exercise persuasion at least and that persuasion I fancy is something which any dealer will readily not refuse to lend his ear to but they say we do not want to police him about his prices. That is his business,

so long as he is paying us.

MR. FRAWLEY: Yes, well of course ----

THE CHAIRMAN: You might take time about it, Mr. Frawley, but I was wondering whether that evidence we have just listened to was capable of supporting a further suggestion, namely that perhaps, perhaps, the responsibility of seeing that the reductions in tank wagons reached the public if it be desirable, if that responsibility should not rest upon those who are presumably reducing the tank wagon in order that it reach the public and that it be left with them to see that their intentions are accomplished.

(Go to Page 17,785)

MR. FRAWLEY: Well that is, if I understand you, you say it should be left with the people who make the tank waggon reduction to see it is carried out. That is the whole point. That is all I suggested the pilot station for. There is no magic in a pilot station. I am not married to that suggestion at all.

THE CHAIRMAN: I am wondering if the pilot station meant a thing because the operation is so different. It is not reasonable that you are going to have the Imperial or the B.A., or Mr. Plotkins set up a grocery store in Oyen in order to have a pilot station; or selling overalls in Leduc and ham sandwiches in Calgary. I mean pilot operation either by the Government or by the major company is very different from the usual service operation.

MR. FRAWLEY: Well I would not think so. They operated them themselves until just a few years ago when they turned them into leased premises.

THE CHAIRMAN: Don't you think they found it very good business to do so in that these other people engaged in a variety of other pursuits which they could enter on in conjunction with it. Such a thing as repairing cars, I have never heard of these oil companies ever doing that.

MR. FRAWLEY: When the oil companies operated the service stations, as we know them today, they had tiresto sell and grease and they had a repair shop, doing minor repairs. I am sure that the companies - well somebody here perhaps knows about it, it is not going too far back - didn't they operate a service station as we now know them?

MR. HARVIE: Not to the extent that they are run today. I think at the time that system developed that they turned at that time towards leasing the stations, that is as I remember.

THE CHAIRMAN: However, I think we understand.

MR. FRAWLEY: Yes, I am not committed to the pilot station, only with the expectation to see that the will of the supplying company, when they order a tank waggon cut, be carried into existence. If Mr. Halvorsen is prepared to assume that responsibility then I put my recommendation in another way. That this Commission recommend that the supplying company, the company ordering the tank waggon reduction take the additional responsibility of seeing that is carried through to the consuming public. That is my point wholly and completely.

Now I pass to the question of jobbers and that is a subject which might take us some time but I have just one point to make about that. First, I will give you a little bit of the history about it. Dr. Frey talks about the jobber in Volume 132 at Page 14,665, and it runs through to 14,667. He says there, speaking of the jobber:-

" They are doing a distribution job similar to
" that of the other companies and insofar as
" they are not charging more than the companies
" that have the refineries, it seems to me that
" they are performing a service in the province
" and their justification for being here is in
" the fact that they are able to stay in the

" picture in competition with the other marketers
" and that they are providing services at no
" higher prices generally, certainly not on
" most of the common products, than those who
" are distributing through integration.
"Q Well they have not done anything which has
" been reflected where the man on the street
" can see it most usually, in the tank waggon price?
"A I think that is again one of those things that
" is so subtle that we are commonly not given to
" accepting the subtleties of competition. We
" think that all competition must be immediately
" price competition; prices ultimately reflect
" the total of competition of the competitive
" effect and not just the price effect. "

THE CHAIRMAN: He is laying down the proposition that jobbers do not cost the public any more money than the refiners are charging the public, to the extent they are marketing direct. But I wondered sometimes, unfortunately not while Dr. Frey was here, if by any conceivable chance he had missed the point, that if there were no jobbers at all that the refiners might be able to do a lot better by the public.

MR. FRAWLEY: You mean the refiner-marketer, integrated?

THE CHAIRMAN: Yes, the refiner-marketer. It is quite true to say that with his reduced volume, because of the jobbers, that he cannot give a better price to the public than he is doing. But that if he had it all he might not do a lot better. As I remember the evidence that has not been explored.

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MR. PLOTKINS: Mr. Miller covered that point quite fully and he showed a chart that the cost would be greater if they had all the business.

THE CHAIRMAN: The cost to the refiner would be greater?

MR. PLOTKINS: No, the cost to the marketer. If the B.A., was given a franchise by the Province, he showed by his chart the advance in cost and that the cost would be greater than it is at the present time. On the face of it it seems absurd but in reality it might work out that way.

THE CHAIRMAN: At the moment I was not thinking of Mr. Miller's evidence. As I recall, Mr. Frawley, I went into this with somebody and I thought Dr. Frey, that (1) that too much production led to too much refining; too much refining led to the necessity for getting rid of the product somehow, and because of that there grew up a class known as jobbers, which may be a different kind of person in the United States than here, but nonetheless in that same category, the need to get rid of the over-supply of refined products, just as the producer had to get rid of the over-supply of the crude products. Now then, having gone that far along in my suggestion, I suggested if there was a profit being made by these middle men, then that they should be eliminated and the same service given to the others and the profit that went with him. We may be all too late. I am not saying that we should eliminate the jobber.....

MR. FRAWLEY: That is what I was going on to say, too late because he was here as early as some of them, as Mr. Halvorsen was himself.

THE CHAIRMAN: Quite so.

MR. NOLAN: He was here before the refinery.

MR. FRAWLEY: That is what I mean, as early as Mr. Halvorsen was himself and Mr. Halvorsen was here before the refinery was.

THE CHAIRMAN: Dr. Frey puts it very simply as I remember. Well it does not cost me any more to buy from the jobber than to buy from the refinery, and what harm is he doing. He is providing a form of competition, selling competition.

MR. FRAWLEY: That is his only usefulness as far as I am concerned.

THE CHAIRMAN: I have tnought, since I have thought about it again, and that I had not explored the position with Dr. Frey, if that was not sort of begging the question. Mr. Plotkins refers to some evidence I must say that is not present in my mind at the moment.

MR. FRAWLEY: It is not present in my mind.

MR. HARVIE: It is the 21 stations that they took in country points and showed in each case by a chart and by a statement, and I thought also Mr. Miller explained it in his evidence very extensively that where there might be three operators in a town, three competing operators, that the services are rendered cheaper in that manner than if an exclusive franchise was given to any one compeny to operate in that town. The reason being that in effect you have three part time

men who could make part of their income from other sources. One would be a truck man and another would be a garage man and so on.

THE CHAIRMAN: Yes, that evidence you are speaking about now related to purely service stations did it not?

MR. HARVIE: No, that was bulk stations. Almost entirely bulk stations. That is country marketing I would ssay, or small town marketing. It was presented to the Commission.....

THE CHAIRMAN: Does that touch this problem?

MR. HARVIE: I think it might be applied.

THE CHAIRMAN: Mr. Miller did not direct his mind to showing us that it cost more if the jobbers were gone.

MR. FRAWLEY: No, it arose out of, I presume, the fact that I called such particular attention to Leduc and suggested that it would be much better if the Imperial was there alone, or the B.A., alone.

MR.HARVIE: No, it arose, I think it was from a suggestion made in the early stages of the Commission, before the Commission even sat and Mr. Frawley thought the possible solution to reduce cost would be exclusive franchise as to companies in territories. That is why that map was prepared. Mr. Miller went and took 21 illustrations to show that. One-third of these illustrations were medium sized towns, one-third smaller towns,and one-third very small villages.

THE CHAIRMAN: What Exhibit is that ,

Mr. Harvie?

MR.HARVIE: I can give it to you in a minute.

THE CHAIRMAN: That is something again, that your jobber is not a part time man.

MR. PLOTKINS: The jobber is represented in this Province almost exclusively by this type of operation, the country bulk station.

MR. FRAWLEY: Not the Union Oil Company, that is just the opposite.

MR. PLOTKINS: Yes, with the Union Oil Company that is true. But in general type of competition. But the testimonny of Mr.Miller was that the elimination of any marketers, whether they be jobbers or anybody else, under the conditions that we market under in Alberta, would not tend to lower costs, and that the reverse would be the situation. That is what his evidence shows.

THE CHAIRMAN: Well, all right, Mr. Frawley. I interrupted you.

MR. FRAWLEY: Yes. What Dr.Frey was saying at Page 14,667 - I was speaking about the Union Oil Company, as to the wisdom of the Union Oil Company in Alberta, and as to their effect and he says;

" But no matter what the percentage is of the
" business they represent their part of the
" competition. They represent so much gallonage
" that somebody else does not get.
"Q What good does that do to the consumer if they
" take the gallonage which, let us say, otherwise
" would be divided equally between British

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" American and the Imperial?
"A Or between all of the others, whatever they
" happen to be. It does not necessarily
" follow, of course, if Union Oil got out of
" here that British American and Imperial would be
" the only ones to profit by it.
"Q No, except that, as you say, to use your word,
" their business is pretty well channelized along
" the same lines as Imperial and British American.
" That is the only reason I suggested them. Now,
" what good is this to the consumer that the middle
" man should be in there. Do you think he can
" affect the consumer price. Suppose the Union Oil
" said tomorrow that they thought - I know they
" could not in view of their balance sheet - but
" they thought the consumer should have a better
" price on gasoline. They could never bring about
" any cheaper price, could they?
"A I do not know why not. Union Oil is not wholly
" dependent on its profits here, is it?
"Q No.
"A Any more than several other companies located
" here. Consequently, if they thought that its
" operations in Alberta were entirely too small
" and it wanted to expand it could effect price
" changes. "

And then the Texas Company was called to his attention and he said:-

" Now that is very difficult to say because you
" cannot measure just which factors are responsible
" for the reduction in prices. "

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I do not want to take too much time.

MR.HARVIE: I can give you those references now. That is Mr. Miller. Exhibit "443" Page 17.

THE CHAIRMAN: Volume what?

MR.HARVIE: Volume 2 of Mr. Miller's brief, which is Exhibit "443" at Page 17, he deals with it and then in turn refers to a book of graphs, being Exhibit "444", Page 21.

MR. FRAWLEY: Now, Mr. Chairman, we have had a great deal about jobbers, more perhaps or as much as any other subject we have had to study. I think I can be fairly brief in what I have to say. I am bold enough to make the submission to the Commission that the only justification for the jobber lies in the potential threat which he is to the price leader's gallonage. There is apparently no policy to openly cut tank waggon prices by the jobber. He apparently makes himself felt in his price concessions to dealers and in a general sales effort. Now that is the modus operandi of the jobber. He goes out and he gives price concessions. He goes out and makes a good sales effort, advertising and so on. But the benefits to the consumer come - and that can be taken from Dr. Frey's evidence, it is the subtlety of it as he says - the benefit to the consumer comes only when the price leader has felt the effect of his competitors and their jobbers. Mr. Halvorsen's competitors are the three refineries, Mr. Harvie, Mr. Mayland and Mr. Plotkins, and the rest of them are all jobbers. He feels that and then he uses his weapon and his best weapon, and that is a general tank

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waggon price reduction, to discourage these competitors. Now, of course, it is very difficult, as Dr. Frey points out. The Union Oil Company comes up from California and loses a terrible lot of money every year. Presumably they can call on the parent company for more funds if they want to keep on with Mr. Halvorsen. The Texas Company we find them doing the same thing, spending a great deal of money, erecting service stations and advertising campaigns and so on. So it is pretty difficult for Mr. Nolan to compete with the Texas Company. They have a lot of money to spend to get new business. However, that is the theory of it. That is the explanation of it. As,Dr. Frey puts it to us, a conpetitor, be he a jobber or be he a fellow-refiner, exerts his pressure on the gallonage by a price concession here and a price concession there, or some other kind of comcession, to get gallonage and by making a sales effort. Mr. Halvorsen's response, ultimately, but his first response of course, is a price concession. And that is my difficulty to appreciate the connection between a special price concession and the threat to the leader's gallonage. Because you see the Union Oil Company goes into Red Deer and gives a price concession. Mr. Halvorsen's first reaction is to give a price concession himself to neutralize the Red Deer situation. Now, perhaps the people of Red Deer have benefited, and perhaps they have not; as I will indicate from a little chart here, they have not benefited at all because Red Deer is a place where price concessions have been given. The Union Oil Company goes into Red Deer and goes to Mr. W. B. Lord's service station and gives Mr. Lord a price concession. Mr. Lord is now buying at 2 cents under the posted tank waggon,

not 1 cent that is usual, but 2 cents under the posted tank waggon. He sells of course, at this going tank waggon at 22½ cents exclusive of tax.

MR. COTTLE: You said he sells at the going tank waggon.

MR. FRAWLEY: No, he sells at the going pump price. He does not pass the benefit on to the public. That is the principal question about this whole retail margin. Mr. Lord gets a special concession. Now for good reason or bad, and probably good reason let us assume between the Union Oil Company and Mr. Lord there is a good reason why Mr. Lord should get that concession - the Union Oil Company is kept from building a service station probably in Red Deer so that they regard that Lord station as their own service station. As a matter of fact it has a Union Oil number on it, so it is the same as a Union Oil station. So in one way of looking at it it is our old friend the service station absorption. But the public does not get any benefit from the fact that Mr. Lord is getting 6.9 cents in Red Deer.

MR. PLOTKINS: Is that quite true? You take Mr. Lord's station as an instance. The actual fact is that Mr. Lord the minute he has the extra cent which represents altogether $1,000.00 or $1,500.00 more spread, goes out and takes on more and more risky business. In other words, he will take on some accounts. He might go over and spend more money or he will take on more accounts and he will have to spend more money with them. So the public is getting that extra cent. It is true each individual man don't get it but the public of Red Deer get it.

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MR. FRAWLEY: How do the public of Red Deer get it? If we are to further discuss this phase, and I am content that we should of course - all I know is that Mr. Lord is selling gasoline at 22½ cents plus the tax, or 29½ cents. That is all I know, and I challenge Mr, Plotkins to tell me.....

MR. PLOTKINS: How do you know that?

MR. FRAWLEY: I have bought it there.

MR. PLOTKINS: The evidence is that you may buy that at that price and somebody else might buy it at a difference price.

MR. FRAWLEY: All I am concerned about is John Public who goes and pays Mr. Lord 22½ cents for his gasoline, and Mr. Lord buys it at about 7 cents less than that. I say Mr. Lord does not pass on that saving in his posted service station prices.

MR. PLOTKINS: There is an answer to that. If he don't he would not get more business, and if he would not get more business the gallonage would not be sufficient to have the Union Oil give him the concession. There is the answer.

MR. FRAWLEY: Then we go up the street and we find Mr. Bishop buys from the North Star Oil Company and gets the same concession. He is doing the same thing. You see it is all just.....

THE CHAIRMAN: Confusion twice confounded.

MR. FRAWLEY: Yes, that is it. Confusion twice confounded. Mr. Plotkins says that the public benefit. I challenge that statement and I say the public in Red Deer, and when I say that I mean the public that just goes in and pays the same price at Mr. Lord's

service station that he pays to the Texas station and the Imperial station and the North Star station and all the rest of them.

THE CHAIRMAN: I think we have your respective points of view anyway.

MR. FRAWLEY: Now so much for that.

THE CHAIRMAN: How late do you want to sit tonight?

MR. FRAWLEY: I would like to finish this memorandum.

THE CHAIRMAN: I am not hurrying you in the least. If you want to sit after 4 o'clock we will recess now.

MR. FRAWLEY: I think we will sit till half past four.

THE CHAIRMAN: Then we will take fifteen minutes now and we will sit longer than half past four if you want to.

(At this stage there was a short recess).

(Go to Page 17,798)

THE CHAIRMAN: Well Mr. Frawley, we will continue to sit until you stop us, until you want to stop.

MR. FRAWLEY: Thank you. I would like to get over the balance of this memorandum and perhaps get a start on and perhaps finish on the question of a gasoline tax.

Now I say, I put the proposition to the Commission that the principal justification, if not the only one, for the existence of the jobber in this Province , is in the potential threat which he is to the price leader's gallonage.

Now the difficulty is that these price concessions, the giving of price concessions and these price concessions are the principal things which the jobber is faced with when going out for gallonage and when I say "jobber" I mean every other marketer really. This discussion of mine is not entirely confined to jobbers. It is confined to the Imperial's competitors and they are of course in bulk anyway, in bulk the jobbers, the half a dozen or so jobbers that there are.

Now the difficulty is to relate this price concession technique to the benefit of the consumer because as I say in Red Deer there comes a price concession, but still no benefit to the consumer. With all respect to what Mr. Plotkins is talking about, I can understand a benefit to the consumer when the tank waggon goes down and that is an end result and I have taken the pains or Mr. Cottle has taken

the pains for me to analyse what happened in connection with third-structure, so that the Commission might have some appreciation of how long we might have to wait before the jobber asserted himself in the tank waggon sufficiently to warrant a tank waggon cut, in the other gasolines;in other words to try and measure the length of this long thing to see how slow or how fast the jobber makes himself felt in a tank waggon reduction.

Now I will take you through a few figures here which are not very long. If you will just bear with me I will give you a few calculations for you.

Now Exhibit "315", page 15, which is Mr. Halverson's brief, he tells us that there are 51, that he has 51 price concessions, special price concessions, special price arrangements, with 51 dealers. Now he tells us in Exhibit "314" at page 5, that he has 700 dealers, or 7.3% of Mr. Halverson's dealers buy at less than the 100% tank waggon. Now that is in dealers, in numbers of dealers.

In gallons, if we use the percentages given to us in Exhibit "315", page 10, we find that Esso is, these are the percentages of gasolines which Mr. Halverson sold in 1938 at undivided dealer's prices; now we can see pretty well, by and large, that there are dealer and companies' service stations and so we know that Esso is 87%; that 3-Star is 72%; that Acto is 47%.

Now the same Exhibit "315" at page 13 shows that the total gallonage sold was:

Esso 2,999,465 gallons; 3-Star 10,276,210 gallons; Acto 6,780,025 gallons. Now that is the total, that is the total.

Using the above percentages of 87% for Esso, 72% for 3-Star and 48% for Acto we can see that the Imperial sold of Esso 2,600,000 gallons; of 3-Star 7,400,000 gallons; of Acto 3,250,000 gallons. That makes a total service station and dealer gallonage, according to our estimate, using the above percentages, of 13,250,000 gallons. We know that the total in the company-owned service stations is 3,397,531 gallons. We know that, from Exhibit "314", page 22, therefore, the total dealer gallonage is 9,950,000 gallons.

Exhibit "315", page 15, shows that the special price concessions was given to 51 dealers out of 700. In gallons they gave to 1,224,328 gallons, which is 12.4% of the total dealer gallonage of 9,850,000 gallons.

Now a lot of the figures which I have been giving you are merely Mr. Cottle's, Almost you might say "working papers", and I have now put them all into the record but the figure I want to give you is the one I am at now, the special price concession represented 12.4% of the total dealer gallonage. The price, what you might call the price concession gallonage was 12.4% of the total gallonage.

Now the question that I have tried to solve is how long will it be before the price leader becomes so concerned, that he will reflect

his concern in a tank waggon cut.

Now we have what happened in third-grade as some guide and this is very briefly a statement of what happened in that third-grade; on the 24th of July, 1939, when Imperial finally reflected the competition on Acto gasoline by dropping the tank waggon price the situation was as follows; out of 6,780,025 gallons of Acto, 3,154,845 gallons or 46½% moved at special discount. The reference there is to Mr. Cottle's evidence in Volume 132, page 14,746 and I may say in passing that special discounts bears a relation to special price concessions. Now what happened, what the situation was just at the 24th of July, just say on the 23rd of July; now on the 24th of July this is what Mr. Halverson did, first, he reduced the tank waggon on Acto throughout the Province. This had the result of, consequently the Imperial changed the special discounts to tank waggon cuts over the whole territory but the Imperial retained south of Lethbridge only some special discounts. This was because discounts in the South were so large that a general tank waggon cut was not large enough to take them all up so on the 24th of July the tank waggon on Acto was reduced throughout the Province and-----

MAJOR LIPSETT: Is that July 1939?

MR. FRAWLEY: Yes, the 24th of July, 1939. Now what they did on the 24th of July, 1931 was they converted the figure I have given you of 46½% of sub-normal gallonage to 25½% of sub-normal gallonage. Now this is the point I am making, it therefore may be suggested that up to 25½% sub-normal gallonage the

Imperial is content, complacent, but from 25½% to 46½%, the Imperial is concerned and when the 46½% price is reached then a general tank waggon cut is warranted.

Now if the third-structure is to be the guide in the leaded gasoline, then there will be no cut in tank waggon until the sub-normal gallonage of 12.4%, which is Mr. Halverson's price concession gallonage now, 12.4% of the total, reaches 46½% of the total dealer gallonage, a gallonage of 1,224,328 gallons, which must go to 4,580,000 gallons. Now that is rather startling but that is the conclusion which emerges from a study of what happened in Acto and how long it took for Mr. Halverson to realize that the only way to handle Mr. Plotkins' and Mr. Mayland's competition was not by a price concession here and a price discount area here, but by a general tank waggon cut all over the Province, still leaving some, still leaving some special discount areas of course as I have indicated.

Now to be perfectly fair and to not in any sense wrongfully state this evidence we might perhaps be warranted in eliminating that extreme Southern Alberta area as being not sub-normal in the above sense. It just has to be that way. It is low and perhaps you might almost say "normally low", so that, if we look at it in that way, in fairness to the Imperial, then the 25½% has to be disregarded in the third-structure picture or translating it to my leaded gasoline percentages, the 12.4%, before Mr. Halverson will become concerned, the 12.4% must be not 46½% but 46½% less 25½% or 21% and therefore in gallons looking at it that way, 1,224,328 gallons must become

2,068,000 gallons. Now that is putting it in the very fairest way; in other words the gallons must be increased 100% instead of, well the gallonage must double, the price concession gallonage must double instead of multiply four times as it was in the first interpretation I gave you of the figures but at the very best the gallonage must double and that, it seems to me, indicates what the length of the swing is and how long we may have to wait before we get any benefit from this jobber competition because of the fact that Mr. Halverson has not got to rush to a tank waggon cut. He makes a price concession here, a price concession there, as he did with Mr. Plotkins and it seems to me that that indicates that there is some need for some speeding up process, if it be possible of this, instead of waiting for the long swing because per chance there may be none of us alive before the swing swings around to hit us.

MR. PLOTKINS: Mr. Frawley, if that is a fact, there have been three drops in 18 months on third-grade products. You have only mentioned one. Now if you review all of those you might say the swing is fast.

MR. FRAWLEY: I do not know what Mr. Plotkins is talking about. There was a cut in the tank waggon price in July 1939, that is a cut.

MR. PLOTKINS: It started on June 21st, 1938 and it kept going and it is down now 3½¢ from what it was even in June 1938 and the evidence is in.

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MR. FRAWLEY: Now.....

THE CHAIRMAN: What do you think of that, Mr. Frawley?

MR. FRAWLEY: My calculations are based on the tank waggon cut of the 24th of July, 1939.

THE CHAIRMAN: Yes, but if the other is true and there has been a 3½ cent cut since June 1938, it has an important bearing on what we are saying.

MR. FRAWLEY: I have to revise the whole thing. I will have to study it over again. I may come in tomorrow morning with something on that.

MR. COMMISSIONER LIPSETT: But the point, Mr. Frawley, as I understand it you were making is up to a certain point Mr. Halvorsen's company meets competition by individual concessions?

MR. FRAWLEY: Yes.

THE CHAIRMAN: When he gets to a certain percentage, you say 21% or 21½% in the case of "Q". He then makes a cut in the regular price structure all the way through the tank waggon price?

MR. FRAWLEY: Yes. That is exactly what I say. And if I am not correct I will have to look at this all again and revise it and give you some more figures.

MR. PLOTKINS: May I suggest to you that the measurement of whether the price should come down or not is not exactly only gallonage, but is also the potential threat.

MR. FRAWLEY: I have been talking about that now for a week, the threat to the gallonage that urges Mr. Halvorsen to bring his tank waggon price down.

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Exhibit "728" shows the price reductions, Mr. Chairman. There was a price reduction on the 21st of June, 1938, in Third Structure to 14 cents from 14½ cents, a drop of one-half cent. And the reduction I am talking about on the 24th of July, 1939 was the next cut and that was 1 cent.

THE CHAIRMAN: WThat was from 14 to 13?

MR. FRAWLEY: From 14 to 13. The other cut on the 25th of October 1939 did not affect Third Structure.

MR. PLOTKINS: Oh yes, there is a special allowance of half a cent for certain districts and these allowances have to be taken into consideration.

MR. FRAWLEY: I said all that but I will run over this again.

THE CHAIRMAN: You do not need to. We followed you. It is just the difference between you as to.....

MR. FRAWLEY: You see if there is a sound difference.....

THE CHAIRMAN: There is a difference of 1½ cents as against 3½ cents. As I understand Mr. Plotkins now he stands corrected except that.....

MR. PLOTKINS: The price on the 21st of June, 1938, of Third Structure was 15½ cents. In the City of Calgary it was 14½ cents. Then today the price of Third Structure in the City of Calgary is 12½ cents. It is 13 less a half cent special allowance. The correction is due to the fact that we have not got a uniform price. We have a price based on plus or less special allowances.

That is where the complication comes in.

MR. FRAWLEY: I cannot go on very well. I would rather revise my submission. If Mr. Plotkins is correct and I am quite wrong I want it corrected. I want to revise my whole argument or reject it all if it is not well founded. So I would rather take the time. If I am not right about this I want to know.

MR. NOLAN: All I know about is the evidence. The evidence is that 3 Star has been reduced 6 cents a gallon from September 1936, and Third Grade 5 cents a gallon during that same time.

THE CHAIRMAN: Mr. Plotkins, you say in June 1938 the price of Third Structure was.....

MR. PLOTKINS: 15½ cents. That was what was known as the country tank waggon f.o.b. Calgary.

MR. COTTLE: You mean after the price cut in June?

MR. PLOTKINS: No, that was previous to the price cut. That was on the 20th of June.

MR. COTTLE: The price became on January 5th, 1938, in the city 14½ cents, and outside the city 15½ cents. On June 21st, 1938.....

THE CHAIRMAN: Just a minute, in January 1938?

MR. COTTLE: On January 5th, 1938, the price was 14½ cents in the city and 15½ cents outside the city. On June 21st 1938 the price became 14 cents both in the city and out of the city, with no special allowances.

THE CHAIRMAN: Yes.

MR. COTTLE: The next change was July

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24th, 1939, when the price was reduced to 13 cents both in the city and out of the city but between June 1938 and July 1939 special pride concessions were made which amounted to 1½ cents, and the price cut in July 1939 reduced the 1½ cents to a half a cent.

MR.HARVIE: So the 13 cents became....

MR. COTTLE: The 13 cents is now 12½ cents. It was 14 cents before or also 12½ cents because of the special allowances being 1½ cents. The special allowances went into effect on September 8th, 1938.

THE CHAIRMAN: Does that apply the 12½ cents city and rural?

MR. COTTLE: Yes, that is what the price list says. The distinction between city and rural disappeared in June 1938.

THE CHAIRMAN: Yes, so that in January 1938 you have a rural of 15½?

MR. COTTLE: That is right.

THE CHAIRMAN: Which is now 12½?

MR. COTTLE: It is now 12½.

THE CHAIRMAN: And you had a city of 14½ which is now 12½?

MR. COTTLE: That is right. That is covering a period of two years.

MR.HARVIE: 5 cents and 3 cents.

MR. PLOTKINS: It is only a year and a half.

THE CHAIRMAN: Yes, the January one lasted till June 21st.

MR. COTTLE: That is right.

MR. COMMISSIONER LIPSETT: Then Mr. Nolan's further

concession bringing it up to 5 cents since 1936, that must have been prior to this January 1938? There must have been another reduction.

MR. COTTLE: I do not follow the 5 cents. Exhibit "728" shows the reduction from approximately 16½ to 13 cents, which is 3½ cents.

MR. NOLAN: It has been mentioned many times in the evidence. I distinctly remember them saying the reduction on Esso and 3 Star of 6 cents and on Third Grade 5 cents.

MR. FRAWLEY: This is the exhibit and it cannot be any different than that. Mr. Halvorsen prepared that specially for us.

THE CHAIRMAN: Over and above his exhibits certainly Mr. Halvorsen spoke about it. Well, Mr. Frawley, does all this resolve itself into anything more than this, than the making of the point that the price leader will submit to a certain amount of shrinkage of his gallonage from those who on the face of things at least purport to keep up the price; who do not post a price or are outwardly giving a price to the public that is less than the price at which the price leader is selling, is willing to hold the umbrella over them, to use an expression, up to a point, but that when that certain amount of his gallonage has gone and there is a threat of losing what seems to him a considerable amount more, it is to be expected he is going to take some measures to stop this interference with his, what he conceives to be, his normal and proper turnover. Is not that all it means?

MR. FRAWLEY: Yes, that is precisely what it means.

THE CHAIRMAN: The thing is when is that point reached? And can you do that by any figuration? Is it not largely a matter of psychology on the part of the man who is in charge of the marketing department of the dominant company?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Some people would get annoyed more quickly than others. I do not think you can just put that in black and white.

MR. FRAWLEY: It is not a mathematical certainty at all. But we see the long swing, and that is all we do see. Nobody has said whether it is a month or ten years. It seemed to me there was some opportunity there of observing what the length of the swing was. It is the same thing. It is the long swing in the Third Structure. First he puts in a series of special concession areas, and ultimately he must have launched into a general tank waggon cut. We know that is his technique. But what percentage has to be moving at the special area before he resolves it and turns it and translates it into a general tank waggon cut?

THE CHAIRMAN: Is not that just a matter of his own thought as to what pays him best, to suffer this for a while from the competitor and get in the main the better price from the public that he is getting, or else by estimating the gallonage decide when it ceases to be good business to lose that gallonage.

MR. FRAWLEY: That is right.

THE CHAIRMAN: So he says the price will come down to the public. Why? Not for the benefit of the public but for his own protection as against his competitor.

It is part of the competitive system.

MR. FRAWLEY: And there is nothing wrong. I am satisfied, Mr.Chairman, that the.....

THE CHAIRMAN: I am saying all this with a view to preventing your having to go into a long recalculation unless you think it is necessary.

MR. FRAWLEY: It is not. But it is very wearying. This whole thing is tremendously so but be it however weary I may be, if I am wrong in these calculations and Mr, Plotkins, who is more interested in this industry thinks I am, I want to correct it. I do not care what value it is to the Commission, I am not going to have Mr. Plotkins saying they are wrong from the back of the Court Room if they are not. If Mr.Cottle will take all night and recalculate it for me I will try to give it to you in the morning. We hope to be certain in what we are saying to this Commission.

MR. COTTLE: There is nothing to be recalculated.

MR. FRAWLEY: There is nothing wrong with the point I was making. I say there was a certain percentage of Third Structure gallonage moving at a sub-normal area when Mr. Halvorsen dealt with the situation with a tank waggon cut. That still stands, although there was a cut in June 1938. All I say is, Mr. Cottle in his evidence at Volume 132, Page 14,746, told us the percentage of the volume that was moving sub-normally. That is all. I simply endeavoured to draw a parallel between that and what we might expect to find in connection with leaded gasoline; how long we might have to wait.

MR. COMMISSIONER LIPSETT: Mr. Frawley, may I just

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try and follow it a little further. The argument or suggestion is that based on the experience of Third, we may now expect a similar experience in the future on "Q" having regard to the Gas & Oil Products and such like competition?

MR. FRAWLEY: Yes, that is right.

MR. COMMISSIONER LIPSETT: Is not that somewhat answered by the fact that during the period that this Third Structure was coming down 5 cents or 3 cents or whatever it is, you think due to competition, that in fact "Q" and Ethyl came down 7 cents without that competition or threat? On the hypothesis.....

MR. FRAWLEY: But "Q" and Ethyl came down 7 cents compared with a similar reduction in a similar period on Third Structure of 3½ cents. That is from the 3rd of February, 1936 to October 25th, 1939, regular brand and - Esso is not in here - but regular brand was reduced 7 cents during the same period that Third Structure was reduced 3½ cents. But of the 7 cents 3.70 cents is accounted for by reductions in the price of crude.

MR. COMMISSIONER LIPSETT: And of course the reduction in the price of crude to some extent applies to Third?

MR. FRAWLEY: Just the same of course.

MR. COMMISSIONER LIPSETT: If the argument is sound that the reduction in the Third Structure was owing to this inroad on the volume in that grade?

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: How do you account for any reduction in the "Q" price during the same period, because there was not competition in that?

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MR. FRAWLEY: There was 3.30 cents reduction due to competition in the price of regular gasoline.

THE CHAIRMAN: I suppose you also say that you had competition from Third Structure against the "Q" and Ethyl, competition in the gasolines themselves.

MR. FRAWLEY: Yes, that is right. Now let us see what there was. There was a 7 cent reduction in "Q". Of that this Exhibit "728" shows that 3.70 cents.....

THE CHRIAMAN: Drainage is what I mean.

MR. FRAWLEY: Yes. 3.70 cents of that 7 cent reduction is accounted for and chargeable to reductions in the cost of crude. That leaves 3.30 cents that is due to competition. One thing we do know is that one of these reductions was due entirely to the Texas Company, the one of the 13th of June, I think it was. There were two in June. Yes. The one made on the 13th of June, 1936, the drop of 1 cent was due to the Texas Company when the duty was taken off and they thought, or were assisted in thinking that they should drop the price of gasoline and the Imperial followed. Now that is 2.30 cents, that is all that is left out of the 7 cents. 2.30 cents and that was the reflection of competition alone.

MR. COMMISSIONER LIPSETT: When you come into Third - one of the difficulties that was confronting me was that if you apply that to Third, there was none of the reduction in Third due to competition at all. It was all due to a reduction in the price of crude. I do not know whether that is sound or not. I was just trying to see.

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MR. FRAWLEY: I do not think that you can say of course, - if you want to put it that way this is the calculation, this Exhibit "728" shows that there were reductions in crude price amounting to 3.70 cents per gallon of gasoline. That is why the calculation was there. It was to indicate the extent of the reductions over and above the reductions in the price of crude oil. Now Mr. Commissioner Lipsett suggests that 3.50 is the total reduction since February 1936 in Third Structure and 3.70 is the reduction in the same period in the cost of crude, and you might say that the whole reduction in Third is to be accounted for by the reduction in the price of crude. Well, the figures are there. But we know, Mr. Commissioner, that there was competition in Third Structure gasoline in that period. Exhibit "682" shows very clearly that from the 27th - now this is on record and this is a fact - that from the 27th of February 1935 to the 6th of June 1935 - oh well, this Exhibit "728" is for a period later than that.

MR. COMMISSIONER LIPSETT: I was just wondering, Mr. Frawley, whether one really could base an argument on the reduction in Third Structure that it is due to loss of volume when we find greater reduction in "Q" without that competition. Unless possibly what the Chairman suggests here that it was a reduction in Third that really was the competitor with the "Q"; the drainage from "Q" to Third by reason of the bigger spread.

MR. FRAWLEY: Oh yes, but there was competition in Third Structure gasoline. That seems to be so patent from this evidence.

MR. NOLAN: Dr. Frey said there

was competition in leaded gasoline too.

MR. COTTLE: There is no doubt about it the drainage factor had something to do with it. At one time the spread between Third Grade and "Q" gasoline was 6½ cents and it is now only 3 cents.

MR. PLOTKINS: That is the answer. That was the competition. The competition was that the spread was too great it was draining into Third Grade and the Imperial had to face the facts and reduce the spread. That is the answer.

MR.COMMISSIONER LIPSETT: You got your lower price in Third partly by competition and partly by the reduced price of crude, and that in turn, owing to the drainage giving such competition,has reduced the price of "Q" by the 7 cents.

MR. FRAWLEY: Very likely, Sir. Now in connection with the jobbers it is my submissnn that the consumer's best interests are not taken care of sufficiently by leaving the trend of tank waggon price to the undirected play of the so-called competitive forces. In my submission there is a place where close observation by an intervening body will have an effect. When the Board knows the number, the amount and the extent in area of the gallonage getting or gallonage retaining price concession, it will be able, by intelligent conference with the industry, to see that the benefits of the competitive play are translated into reduction to the consumer at the earliest possible moment, consistent always with working no detriment to the industry.

Now I have a word to say on Service Station Absorption. I spent a considerable

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time during the taking of the evidence in an examination of the propriety or otherwise of the companies maintaining these service stations, and bonusing them by failing to collect an economic rent. Now there would be a very simple way in which the Company could circumvent any regulation of any kind which would demand that the Company collect that economic rent. Suppose we endeavour to deal with the service station absorption question by just arbitrarily saying there must be a rent collected which would give to the owning company all of its operating expense, all of its outlay, its taxes, its insurance and a fair rate of return on its investment. Then, of course, the supplying company could easily do that. They could exact from the dealer, the service station lessee, just such a rent and then simply give him a special price for his gasoline, and one would be balanced out by the other. So it seems to me that the more one thinks of the so-called evils of this bonusing - all that I had in mind of course was some way of reducing the duplication, because it seems a strange thing that we have Dr. Frey saying "Yes, there is duplication of service stations, but I could not go out and tell you the ones which should be discontinued or struck out." But there is duplication in service stations. We have that as a fact. Then seemingly there is not anything anybody can do about it. You cannot say that there are too many service stations without saying necessarily that there is a certain amount of cost there.

Which must be coming out of the consuming public. The two things go together but you cannot possibly accomplish anything it seems to me, by insisting upon an exaction of an economic rent. Take any service station you like, all the supplying company would have to do would be to say, "Well we will have to put your gasoline in here 2, 3 or 4 cents under tank wagon but you will have to pay, there is a new law now which says we have to collect an economic rent from you", so it seems to me there is not very much we can do about the practice of the company in maintaining service stations here, there and other places and the good ones with the bad ones, maintaining them all by the expediency of absorbing a portion of the, absorbing in marketing expense a portion of the proper cost of carrying those stations, a portion of the economic rent you might say.

Now I have something to say about the gasoline tax.

MAJOR LIPSETT: That finishes the eight points of collateral marketing?

MR. FRAWLEY: Yes, it does, Mr. Commissioner, yes, it does.

Now the gasoline tax can be discussed ---

THE CHAIRMAN: Mr. Frawley, before you start that, you and Mr. Cottle will not forget at some stage when you have taken time to consider this whole question of the return on capital.

MR. FRAWLEY: Yes.

THE CHAIRMAN: I do not want you to go into it now.

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MR. FRAWLEY: I have had a discussion with Mr. Cottle about it. Now I do not know how helpful I will be. Mr. Cottle assures me you cannot find out what a company is doing.

THE CHAIRMAN: You can certainly be helpful to the point of saying that you cannot make any suggestion as to how a practical effect can be given to your submission, if that is what you finally come to, but I do not want it lost sight of and that is all.

MR. FRAWLEY: Yes, I will speak to it again.

THE CHAIRMAN: Quite.

MR. FRAWLEY: Now the gasoline tax can be discussed under I think two headings, three headings, the nature of the tax itself, the diversion that there is in the tax itself ---

THE CHAIRMAN: What is the first?

MR. FRAWLEY: The nature of the tax, the diversion and the evasion.

Now Exhibit "714" shows the rates of taxes in the various provinces and that indicates that the tax is 10 cents in some of the provinces, yes, Exhibit "714" is a list of prices and it shows that the tax in Ontario is 8 cents, in Manitoba is 7 cents ---

THE CHAIRMAN: What Exhibit is that?

MR. FRAWLEY: Exhibit "714". It is just an excerpt from the National Petroleum News but it happens to show the gasoline tax.

THE CHAIRMAN: Yes, Exhibit "714".

MR. FRAWLEY: Ontario 8 cents; Manitoba 7 cents, Saskatchewan 7 cents, Alberta 7 cents, British Columbia 7 cents,

Quebec 8 cents, New Brunswick 10 cents, Nova Scotia 10 cents and I think in Prince Edward Island it is 10 cents also.

I received this morning something which I think I should leave with the Commission. It is the Petroleum Products Industry in Canada, 1938. It is that annual publication and it is pretty late to be publishing it for 1938 but it is apparently just out. I only received it this morning.

THE CHAIRMAN: It is a publication?

MR. FRAWLEY: Of the Department of Trade and Commerce, the Dominion Bureau of Statistics. It is a census really of the Industry and the Commission might find it useful. It indicates gasoline volume, refinery throughput and all that sort of thing for 1938. It is just something else. You might want a reference some time and that is all and perhaps I had better leave it with you.

THE CHAIRMAN: Any objection, genetlemen?

MR. NOLAN: No objection.

THE CHAIRMAN: We will make it an Exhibit so that if we ever do refer to it we will have the number.

(BOOK ENTITLED PETROLEUM PRODUCTS INDUSTRY IN CANADA, 1938, PRODUCED AND MARKED EXHIBIT "742".)

MR. FRAWLEY: Now Mr. Appleton deals with the question of gasoline tax. Mr. Appleton is an inspector under the Act, in Volume 138, Page 13,339. Now Mr. Appleton also has filed a folder which is part of Exhibit "683".

THE CHAIRMAN: I did not get that last reference.

MR. FRAWLEY: Mr. Appleton deals with this question of taxes in Volume 118, Page 13,339 and he also filed a folder and that is part of Exhibit "683" and it

contains a lot of information, the Statute, the regulations, and several memoranda as to Statistics and also the forms used in connection with the administration of this Act, everything, everything which is used is in this folder.

Now the nature of the tax I think it can be said that the scheme of the Act and the regulation ---

THE CHAIRMAN: Now excuse me a moment, didn't he file something else showing what taxes were collected and so on?

MR. FRAWLEY: Well I think it is all here. There are several statements in here.

THE CHAIRMAN: Didn't he prepare a statement, Mr. Cottle?

MR. COTTLE: Mr. Appleton filed some memoranda containing the information.

MR. FRAWLEY: Yes, it is all here. It is all in the folder.

THE CHAIRMAN: It is all in Exhibit "683".

MR. FRAWLEY: Yes, as part of Exhibit "683".

THE CHAIRMAN: All right, thank you.

MR. FRAWLEY: And I say the scheme of the Act and the Regulations and the nature of the refunds and all that sort of thing indicates that the tax primarily seeks to tax the highway user.

The definition of fuel oil is all embracing. It is so wide that it is necessary, first of all to exempt from payment of the tax burning oil used in locomotives, oil used for dust laying purposes, oil used for treating railway ties and so on.

The tax is 7 cents per gallon

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without rebate of any kind when the gasoline is purchased to be used in a motor vehicle.

On the other hand the tax is 7 cents per gallon with a rebate of 6 cents when the gasoline is purchased for use other than for the operating of a motor vehicle, be it farm or be it railway contractor using it off the highway on the railway, be it the Canadian Pacific Railway using it in those cars that travel on the railway tracks and so on, that is all subject to a rebate of 6 cents. Mr. Appleton's folder shows that there are many of these non-highway users and I think that is an apt expression, "non-highway users". There are as is filed, as his statement indicates, shows there are many, there are farmers, aeroplanes, blacksmiths, boats, contractors, dry cleaners, elevators, garages, lighting plants, miles, mining, municipalities, railways, well-drilling, all of those people are non-highway users and they buy it at a net of 6 cents.

In the fiscal year ---

MR. COTTLE: A net of one cent.

MR. FRAWLEY: They pay a net of 1 cent.

In the fiscal year 1938-39 the 1 cent tax amounted to $423,376.60 made up as follows: by non-farmers $30,156.35; by farmers $393,220.25. The amount of that tax itself appears in different Exhibits. I think it is in very handy form and I think it is Exhibit "456", no, but it is on Exhibit "179". Exhibit "179" shows that the net revenue in the year 1938, the calendar year 1938, January to December, was $2,871,746.55 and the figures on my, well no, these are fiscal year figures and they may be a little different, the figures I am giving you as to what the

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1 cent tax amounted to.

Now in connection with diversion I have only this to say, we have had a lot of talk about diversion. It seems difficult to know, there are two or three different points of view and I am really not prepared to discuss it very intelligently but I will make this suggestion to the Commission and if my friends have no objection to it, and in any event I put it to them, that they may have some concern about it, Mr. Cottle might make some examination of the Provincial Accounts, the public accounts of the Province, to give the Commission some information with respect to the amount of diversion if there be any and let that be part of the Commission's records.

THE CHAIRMAN: You refer to diversion and by "diversion" you mean "monies collected from gasoline tax from those who use the highways which is not being used on the highways."

MR. FRAWLEY: Yes, that is what I mean.

THE CHAIRMAN: But employed as part of the general funds of the Province.

MR. FRAWLEY: Yes, diverted to the general revenue funds, the gasoline tax.

THE CHAIRMAN: Yes, to a greater extent than work has been, or monies have been expended on roads.

MR. FRAWLEY: Yes.

MR. NOLAN: It is all diverted to the general funds.

THE CHAIRMAN: Quite so.

MR. FRAWLEY: And that is why the Chairman corrected my expression. Otherwise we are into a discussion, well I am

very frank to say that I have not made any such study of the public accounts to enable me to address myself to it intelligently. It seems to me it would be perfectly proper that the Commission Accountant should take the Commission's direction and inform the Commission as to what extent such diversion has taken place.

THE CHAIRMAN: I do not suppose the Industry need concern itself as to what has happened to the money but they are interested as to what is collected and whether it is earmarked or not, I do not suppose they are much interested.

MR. NOLAN: Was not the "Case for Alberta" left with the Commission on that point by Mr. Brownlee?

MR. HARVIE: Yes, he referred to the whole matter.

MR. NOLAN: Mr. Brownlee made the point or sought to make the point --

THE CHAIRMAN: I take it gentlemen, to save time, that if it is in there no one has any objection to Mr. Cottle finding it for us?

MR. NOLAN: I have none, Mr. Chairman.

MR. FRAWLEY: Now with regard to evasion, Mr. Chairman -----

THE CHAIRMAN: What about you, Mr. Harvie?

MR. HARVIE: I have none at all but I think it would be wise if we were supplied with that information also.

THE CHAIRMAN: We will not reassemble for it.

MR. HARVIE: No.

THE CHAIRMAN: As a matter of fact, I have no reason at all to think that the ear-marking of the money is something with which you are concerned greatly.

MR. HARVIE: I think that may be so but on the other hand we have made a very great effort to keep in touch with what has been supplied to the Commission.

THE CHAIRMAN: What is your suggestion?

MR. HARVIE: It is simply that at the time Mr. Cottle gives the information to the Commission that we be supplied with the same information, Mr. Chairman.

MR. FRAWLEY: That is not very satisfactory. However, I have no objection, of course.

THE CHAIRMAN: I do not see any objection to any statement that Mr. Cottle prepares for our information that we should perhaps direct that a copy be sent to you. I have not the slightest intention of reassembling for any discussion.

MR. HARVIE: I am not suggesting that.

THE CHAIRMAN: However, I see no objection. If we are going to make use of it it will be in our report anyway and I see no harm in you getting it a few weeks or days earlier as the case may be.

MR. FRAWLEY: Now, Mr. Chairman, dealing with evasion. I think it has pretty well been said there is some evasion. Mr. Appleton, who perhaps knows more about it than anyone else, deals with it briefly it is true in Volume 118 at Page 13,339 and 13,340.

THE CHAIRMAN: I did not get those pages, Mr. Frawley. One page will be sufficient.

MR. FRAWLEY: Page 13,340 of Volume 118. Mr. Appleton says this:

"Q Well what is your findings in inspecting this
" difficulty, you have at times had complaints about
" farmers not paying the tax on gasoline used in

" their trucks or cars and going on the road with them?

"A Oh, yes.

"Q You have?

"A Yes.

"Q Is that very prevalent, the farmers using gasoline

" in their trucks?

"A We have quite a number of complaints.

"Q Now why under those circumstances has there been

" nothing done to remedy that situation?

"A I would not know. I have nothing to do with the

" policy."

Then at page 13,344 on the same point this is what he says:

"Q So in those cases these coupons have been used for

" cash?

"A Yes.

"Q Just the same as currency?

"A Yes.

"Q Because the storekeeper is able to convert them

" to the equivalent of cash?

"A Yes.

"Q Now that is another method?

"A Yes.

"Q Then there is another method possible and actually

" practiced, the farmer owes the agent a bill for

" gasoline, including gasoline?

"A Yes.

"Q And he finds himself short of money?

"A Yes.

"Q But he has a reserve of coupons and he can go into

" the agent of the company and say, "Here are so many

" coupons and that wipes out my bill'.?

"A Oh, yes.

"Q That is possible and that is another method?

"A Yes.

"Q So there are a number of methods of defrauding the

" Government?

"A Yes.

"Q Of the taxes that are rightfully due?

"A Yes, through the coupons you mean?

"Q Yes, through the coupons?

"A Yes."

Then this is Mr. Plotkins' examining and he asks,

"Q And that has been brought to the attention of the

" Department on various occasions?

"A Yes.

"Q I have brought that quite strictly to their attention

" at various times?

"A As a matter of fact I might say that a number of

" investigations ware going on before the police at

" the present time into the same thing."

Now that is what the evidence is and the next question is the all important one, what remedy can or should be applied? Now the only rememdy that has been suggested to the Commission was a special colouring of the gasoline sold at the 1 cent tax and I am able to read to the Commission - well you have also been told Mr. Chairman that in the Province of Saskatchewan and in Santa Fe in New Mexico this system of coloured gasoline is

practiced to prevent evasion. And this is what the Saskatchewan Government says to the Department of the Provincial Secretary in this province. It is a letter dated the 2nd of November, 1939, from the Assistant Provincial Tax Commissioner, Mr. J. R. MacDonald, to Mr. R. C. Arthurs, Secretary to the Department, Department of the Provincial Secretary, Legislative Buildings, Edmonton, Alberta, Dear Sir:

"I regret the delay in replying "to your letter of the 21st ultimo.

"We purchase in bulk the purple "dye in powder,",

THE CHAIRMAN: "We", that is the Government?

MR. FRAWLEY: The Government of the Province of Saskatchewan, yes.

"We purchase in bulk the purple "dye in powder and weigh it out in quantities suitable for "various gallonages. The dye in the smaller quantities "is placed in envelopes and in the larger quantities in "cardboard containers. We retain control of the dye "and have our officials at the refinery plants measuring "tanks and overseeing the dyeing operations. In this way "we know exactly the gallonage of each commodity dyed "purple for each refinery. In the case of the British "American Oil Company, Limited, pending their securing "sufficient storage at their distributing centres, we have "had to temporarily appoint individuals at these centres "to undertake the work.

"The returns made each month "by the companies show the total sales of (1) purple "fuel; (2) other fuels and in respect of item (2)

"

"tax at the rate of 7 cents per gallon is remitted. These "returns, together with stock reports, are checked against "the record of gallonage dyed purple and in addition we have "auditors examining the books of the respective companies "collecting the tax.

" We have the province divided "into approximately two dozen districts each in charge of "a traffic officer and up to the present it has been found "essential for the traffic officers to dye a certain amount "of second grade gasoline, that is the blue, amber and green, "at outlying points. The necessity for this is that up "to date desirable storage space has in some cases not been "installed and, further, the gallonage of this type of fuel "sold for farming purposes is not large and our traffic "officers have been accommodating the vendors by dyeing "these fuels on their premises but as soon as additional "storage space has been provided this will be discontinued. "It is expected that next year the storage question will "have been disposed of and then dyeing of all fuels purple "will be confined to the refinery plants.

" We do not dye Ethyl red gasoline "under any circumstances.

" It is an offense to use any "fuel coloured purple in the tank or container of a motor "vehicle and it is part of the duties of the traffic "officers to examine motor vehicles. So far this year we "have had approximately 100 convictions. The fact that "part of the penalty for using purple fuel in a motor vehicle "is that the motor vehicle shall be impounded for a specified "period of not less than fourteen days or until the fine and

"costs imposed have been fully paid, whichever is the longer "period, has had a very good effect, with the result that "our revenues have very substantially increased, in fact "are approximately fifty per cent higher than last year. "While it is true motor vehicle registrations are higher "this year than last and some of the increased revenue may "be on this account yet we are fully satisfied that the major "portion of this fifty per cent increase is entirely due to "the purple dye system.

" You may be interested in how imports by tank wagon, in particular, are handled. Those "importing in this manner have to possess special licenses "and our traffic officers are constantly on the look-out "for trucks, the drivers of which are required to report to "our representatives located at strategic points along the "borders of the province and they are fully familiar with "the fact that, should they fail to report their importations "and either pay the tax or have the fuels dyed purple at the "border, they will not only be prosecuted but their right "to import will be withdrawn.

" While we encountered a number "of difficulties during the transition period these have "been pretty well ironed out and, generally speaking, the "system is now running smoothly. Not only has our revenue "increased but a tremendous volume of work in dealing with "refunds has been eliminated. It is not expected that the "cost entailed in the present system will be much more, if "any, than that under the old system.

" The people of this province are "very well satisfied with the system, even those who were under

"the refund system possibly circumventing payment of "the tax, have expressed their satisfaction. We are "more than ever certain that many individuals misrepresented "to us the gallonages used in their farm machinery and "motor vehicles and we are further certain that many of "these persons did so not because they wished to be "dishonest but they considered it their right to do so "when their neighbours were deliberately evading tax "payment.

" We believe we have the tax "exemption problem solved and that the system now "prevailing is here to stay. If there are any points "upon which you desire further information we will be "pleased to cooperate with you and further such inform- "ation as we can.

" Yours truly,

" "J. R. MacDonald"

" Assistant Provincial Tax Commissioner."

THE CHAIRMAN: You had better give that a number then.

(DOCUMENT IN QUESTION WAS THEN MARKED EXHIBIT "743".)

MR. FRAWLEY: Then we have a letter from the City of Santa Fe, New Mexico, addressed to the Government of the Province of Alberta, Office of Deputy Provincial Secretary, and Registrar of Companies, Edmonton, Alberta.

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"Gentlemen: Attention Mr. R. C. Arthurs
Secretary to the Department:

"

" In reply to your letter of "October 21, 1939, making inquiry as to information regarding "the coloring of motor fuel where a refund of the state tax "is made:

" As early as 1933, the State of "New Mexico has endeavored to segregate by indentification "the motor fuel which is used for purposes other than the "propelling of motor vehicles upon the highways of this state. "Several identifying agents and methods have been tried and "for various reasons they were discontinued.

" During the year 1937, after "exhaustive laboratory tests and analyses of dyes submitted "by fifteen difference dye companies and disregarding "costs entirely during these tests, this Division chose "the dye manufactured by the Patent Chemicals Company "Incorporated, which Company is represented by Dr. S. Isermann.

" We were primarily interested in "results. This dye, an anthraquinone purple, was chosen "because no motor fuel was being marketed in the State of "New Mexico in this color. It was necessary to choose a dye "of distinctive color and also one which could be easily "identified when mixed with motor fuel which had already been "colored either a bronze or red.

" This dye is furnished us at a "cost of $4.35 per pound in one hundred pound containers. "The transportation charges cost us approximately 3¢ per "pound. While the recommendations of the Dye Company "call for 8 ounces to color 10,000 gallons of motor fuel, "we have seen fit to use 1 pound to color 15,000 gallons,

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"in order that sufficient dye will be added to identify "this motor fuel without question.

" Shipment of this dye is made "to us in bulk and is packed in special-made envelopes "containing approximately a level teaspoonful of the dye "which is enough to treat one barrel of 50 to 55 gallons.

" Taking into consideration "the cost of the dye, transportation costs, envelopes, labor "in packing the dye and transportation charges where it is "sent to the dealer, the total cost to the state is approx- "imately .017¢ per barrel.

" While it is difficult to "measure the results of this identification in dollars "and cents as reflected by the amount of refunds paid due "to varying crop conditions, the placing of additional land "under cultivation, increase in purchase of motor equipment, "replacing animal power upon the farms and increased mining "operations during the past few years, we do believe that "by the segregation and identification of the motor fuel "to be used for nonhighway use, it has definitely put a "stop to the claiming of illegal refund of tax.

" We do not insist upon the use "of this dye where motor fuel is used for aviation purposes "and clothes-cleaning establishments. Also, by laboratory "tests, it is evident that the use of a dyed gasoline in "pressure appliances has some effect in shortening the "period of successful operation before cleaning is necessary. "The amount of motor fuel used for pressure appliances is "negligible and is, therefore, of small importance in matter "of control.

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" In order to fully understand "the application of the law in regard to the identification "of motor fuel, it is possible that you would like to become "acquainted with these laws. We are, therefore, enclosing "a copy of our Motor Fuel Tax Acts. One of our dye envelopes "is also enclosed. In the administration of these laws and "the use of the dye, we have run into some administrative "difficulties, not through the fault of the dye, but in the "application.

" When the new dye was put into "effect, we had numerous complaints that the dye was causing "stoppage of motor fuel feed lines, the formation of gum "under the rings and around the valve stems of the motor, but "upon a thorough investigation of these complaints, it was "found that it was not due to the dye in any instance and "that other factors contributed to these causes of motor "failure or improved operations.

" About this same time due to "the keen competition in the petroleum industry some unscrup- "ulous dealers solicited business upon the basis of not "dying or coloring the gasoline at the time of delivery. "Intensive efforts on the part of the field personnel in "checking deliveries which have been made the same day or a "day or two previous soon put a stop to this practice.

" In conclusion, we believe that "the use of dye has been of great assistance in protecting "the revenue of the state from unscrupulous persons who in "the past have possibly presented fraudulent claims for motor "fuel which was not used for the purposes intended.

" Any further information in this "respect will be gladly given upon request.

" Yours very truly,

" J. O. Gallegos

" Commissioner of Revenue

" By "P. E. Culver"

" P. E. CULVER, Director
Gasoline Tax Division. "

(DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "744".)

MR. FRAWLEY: Well that is all I have got to say about the gasoline tax. I think His Honour the Lieutenant Governor would certainly be glad to have from the Commission a recommendation as to how best to deal with this question of evasion. The only suggestion that has been made to the Commission is the use of the purple dye and the two letters that I have just read into the record seem to indicate that so far as these two jurisdictions are concerned that the purple gasoline is working successfully there. And while one does not like to rush into the adoption of a scheme without endeavoring to judge all of the consequences and all of the implications, it does seem to me that the purple gasoline is something that is worth the very serious consideration of the taxing authorities in this province. There may be costs added. You see Mr. MacDonald in Saskatchewan says:

"We do not dye Ethyl lead gasoline under any circumstances." Well it has crept into evidence here that some Ethyl gasoline is being used on the farm. Certainly considerable "Q" is being used and there is a real effort to get more "Q" on the farm. That means with practically all products there would have to

be machinery available to dye all products and to me it seems an unpleasant thing to think you would have to have special storage to handle this special gasoline. I thought, perhaps, in my ignorance that it could be dyed as it is purchased, per transaction. The insertion of some dye into a barrel of gasoline just as it is being taken away, or a truckload of gasoline and that would not mean then - it would mean some extra handling, of course, but it would not at least mean the investment of capital by the company. Because, if these companies in Alberta have got to set up - take the Imperial Oil Company, if they have to put up special tankage for purple gasoline at each of their 282 stations and the British American with the same and the Great West with 130, My, oh My, that is going to run into a tremendous capital investment and I do not know -- you see we do not know how much evasion there is. We do not know how much it is costing the Province. We do not know. Mr. Appleton was not able to tell us and, of course, nobody knows. It is just the case of a guess, in any event.

MR. COMMISSIONER LIPSETT: Would it mean three separate pumps, for instance, or storage tanks for Ethyl and "Q" and Acto?

MR. FRAWLEY: First of all, it is the country business that we are thinking about. It is not the pump business. It is the filling of barrels. It is a barrel business. And it means that at the bulk stations in the country there would have to be first of all extra tankage, so Saskatchewan says.

MR. COMMISSIONER LIPSETT: For each grade?

MR. FRAWLEY: I have not that figured out.

For each grade. Well, if the grades are first, second and third and distillate, that is four grades. Surely it is not contemplated there are going to be four extra tanks at each bulk station to look after the purple gasoline. I would say that would be enough to condemn it immediately in this Province. Now, if , on the contrary, it can be done by some very quick system of injecting, with some injector equipment, or something of that sort, well then probably-----

THE CHAIRMAN: Well, cannot we find out? After all, if that letter is not clear we should get it clear. It seems to me, as you say, Mr. Frawley, that it is a tremendous expense involved, if we take that view of it. There is no such suggestion in that letter. I mean you would have thought, having gone into it so thoroughly, if it involved a tremendous expenditure by the oil companies in Saskatchewan, that there would be some indication of it there.

MR. FRAWLEY: "It is expected that next year the storage question will have been disposed of and then dyeing of all fuels purple will be confined to the refinery plant." That is dyeing at the refinery, but what happens with Mr. Halverson when he gets it out to his 184, and Mr. Harvie's company too, to all of their bulk plants. That is a separate product then. It is a separate product. The farmer will want some 3 Star for his truck that he will pay the 7 cent tax on. He will want some 3 Star for his power machinery. He will want some third grade for one and some third grade for another.

THE CHAIRMAN: I understand. You would expect them to meet with the same difficulty in Saskatchewan?

MR. FRAWLEY: Yes, you certainly would.

THE CHAIRMAN: That is something that the oil companies are interested in and, perhaps, Gentlemen, you would be wise to find out what it means to you in Saskatchewan if you already do not know.

MR. HARVIE: I have been looking into it on behalf of my company, at the request of Mr. Trowbridge, and while I have obtained a lot of information it is a very complicated question and we are still working on it. I am working on it with Mr. Trowbridge.

THE CHAIRMAN: You do not want us recommending something that is going to cost you a lot of money without you telling us something more than that you have talked with Mr. Trowbridge about it.

MR. NOLAN: I know that my officials have been talking to Government officials about it long before it came up before this Commission. This has been under discussion and Mr. Frawley knows that.

MR. FRAWLEY: I know very little about it. Oh, I do know that, that it has been discussed. Yes, indeed I know that.

MR. HARVIE: I did not know until the last couple of days that Mr. Frawley had any idea of making any such suggestion before this Commission.

MR. FRAWLEY: I am not making it. I am very careful in not asking the Commission to rush into these matters. But I say that the Government might consider it. I am not saying that because they are already doing it. But even if they were not doing it I would think it would be worth considering. I do not ask that this Commission

recommend definitely that the Government go into the question of purple gasoline forthwith. It has got to be studied because surely some other method has got to be evolved than extra tankage at each one of these many bulk stations.

THE CHAIRMAN: Is that what it means to you, Mr. Nolan?

MR. NOLAN: Yes, it does, Sir. But I do not know what has transpired about it between my company and the Government other than there have been discussions. I can find out if you would like me to. Mr. Trowbridge knows a lot about it, as much about it as anybody, doesn't he?

MR. FRAWLEY: He knows what has happened but what I would like to know is what objections the companies take. I take it that the companies pointed out to Mr. Trowbridge the extra expense that would be involved and so on.

MR. NOLAN: I am not unmindful of the fact that if more taxes are collected then there is some reason to anticipate that taxes will go down and it is to our advantage that something should be done. But I have not any evidence about it. It has not come before us here. If there is anything that I can do to help I will be glad to. If the Commission wants more information about it.

THE CHAIRMAN: It has a bearing on what has been said here. The companies have definitely said that there is too much taxation. This is one means, perhaps, of getting it reduced by seeing that those who should pay do pay.

MR. NOLAN: Yes, unless the Government

just keeps the additional.

MR. HARVIE: I think the companies would like to have any tax that should be paid paid by all parties.

MR. FRAWLEY: May I recall these two short paragraphs to the Commission. This is what Mr. Arthurs wrote requesting information about:

" In both cases I requested information with regard "to Revenue but in each case this information was not "given.

" I particularly wanted this information from "Saskatchewan as I desired to make comparison from a "cash value standpoint."

Do you understand what Mr. Arthurs was after there?

MR. COTTLE: What he wanted to find out is how much extra money was collected by them.

MR. NOLAN: My companies are in Saskatchewan. We are all-Canada, I have heard several times.

MR. FRAWLEY: Oh, yes.

MR. NOLAN: We know something about what has happened down there and if it will help the Commission let me find out what has happened there.

THE CHAIRMAN: We do not know and it is, I think, of some moment to the companies. We think, in considering the subject of taxation, which I think we must, that this tax evasion must stop, if there is a practical way of doing it. Now, we should not come to that conclusion and make some recommendation without having some idea. I suppose we should get from Saskatchewan that information and I suggest that you write them, as to what it meant to the industry.

MR. NOLAN: But we do not get it sir.

MR. FRAWLEY: Oh, no. He just looks at it from his own standpoint and it is agreeable and he talks out loud and praises the system but he does not tell us or tell Mr. Arthurs anything.

THE CHAIRMAN: There is no suggestion there that the Industry is finding it a serious thing.

MR. NOLAN: Well, Mr. Frawley, with your permission, Mr. Chairman, I will prepare a letter or a wire if you like to send my people to bring out the salient points that must have arisen in Saskatchewan. This thing is in force in Saskatchewan.

THE CHAIRMAN: Yes, of course.

MR. FRAWLEY: And enforced, 100 convictions already he says.

MR. NOLAN: Yes, that is what I mean, the machinery is set up and whatever it may be ---

MR. FRAWLEY: Yes, but he points out it is in a state of transition.

MR. NOLAN: They are going to transit themselves from tanks to refineries as I understand.

MR. FRAWLEY: Yes, but that is only from his standpoint, he says, "I am going to have it fixed up for myself by having it all dyed at the refinery" but that does not help Mr. Halverson if he has to have all these extra tanks at his bulk station.

MR. HARVIE: And additional trucks.

MR. NOLAN: I just do not know sir, I am quite prepared to help to try to get the information.

MR. FRAWLEY: You said something about not waiting, I am content with that, If Mr. Nolan gets a letter

say over the week-end from his Company I would be content to have that filed with the Commission.

MR. NOLAN: I would not guarantee to get it over the week-end from my company. You are forgetting that it is over the holidays, but I will get it early next week, sir. I presume it does not matter within a few days?

MR. FRAWLEY: That is all right and just hand it in or if you will let me have it I will hand it in.

MR. NOLAN: I will have it addressed direct to you.

MAJOR LIPSETT: It would be a good thing to write to the Saskatchewan Government and get an idea of what the details are there from their point of view also.

THE CHAIRMAN: How did they get over the price, and the difficulty of calling for huge capital expenditures, if there be any, on the part of all these companies?

MR. HARVIE: The system employed in connection with the Imperial Oil is one matter, that employed by ourselves, as pointed out in the letter, is another matter, I mean on our new system of distribution they have been good enough to co-operate by letting the road men do some work out in the district until we had got additional storage, but I do not think there has been any final conclusion as arrived at either by our company or by the Government as to what the ultimate result will be.

MR. FRAWLEY: Unfortunately he points out, he says in the case of the British American Oil Company Limited pending their securing sufficient storage at their distribution centres, "We have had to temporarily appoint individuals at these centres to undertake the work", and I infer from that that

the British American is going about the construction of sufficient storage at their distribution centres.

MR. HARVIE: That has been discussed and some of it is going ahead I suppose.

MR. FRAWLEY: Special storage for this purple gasoline.

MR. HARVIE: There is no question about that, if they carry out their present procedure, the suggestion has been made by our company that these capital expenses will have to be written off possibly on a very short term of years, due to the changing conditions in the use of the fuel.

MAJOR LIPSETT: Does that mean that the dyeing would be done at your distributing points, instead of at your refinery?

MR. HARVIE: No, not necessarily. If we have storage at the distributing points, and the same would apply to the Imperial, the dyeing could be done at the refinery but there would be the additional cost of transportation due to having a different container to handle that.

MAJOR LIPSETT: That is in separate trucks or separate tank cars?

MR. HARVIE: Something like that.

THE CHAIRMAN: And the difficulty would be to clean the trucks?

MR. FRAWLEY: Yes.

MR. COTTLE: And the tank cars.

THE CHAIRMAN: Yes, and the tank cars.

MR. HARVIE: There are a lot of problems which are being worked on, which are not solved yet.

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MR. FRAWLEY: But Mr. MacDonald is a real enthusiast!

MR. HARVIE: He is.

MR. NOLAN: But they convicted 100 people for evasion and surely before they finished that they knew whether the stuff is mixed in the refinery or the tanks, surely they know that before you send men to gaol.

MR. FRAWLEY: It is almost too good to be true, even the tax evaders are enthusiastic about it, Mr. MacDonald says.

MR. HARVIE: I will be very glad to do what Mr. Nolan suggests also.

MR. FRAWLEY: Yes, if we had a statement from Mr. Harvie and Mr. Nolan and then filed it.

THE CHAIRMAN: In the end we may not, I look upon this tax evasion as a serious thing as affecting the whole subject of taxation and particularly in relation to what we are now next coming to, which I observe is not covered by your point, and that is "Why tax this Industry at all" and if so, "Why so much". We have had submissions made to us that we would like to hear you about either now or in the morning, as you may prefer. We have had the submission made to us that the taxation should be made general, that this Industry should not be singled out, even with some others, for special taxation, for special burdens.

MR. FRAWLEY: Mr. Elliott gave us a memorandum on that.

THE CHAIRMAN: Mr. Ray, you remember, rather stressed that and other witnesses including Mr. Halverson and I forget who all now but Mr. Miller, I think, if not

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Mr. Bronsden, rather stressed the burden of taxation and I was quite impressed with Mr. Miller, I think, I am quite sure it was Mr. Miller's presentation, accompanied as I remember it by appropriate charts or maps showing how this business of getting down the price of gasoline does not mean a thing, that up goes the tax; that so far as the consumers are concerned with whom we have heard much for a long time, that they are not getting, Mr. John Consumer is just where he always was, when we save costs on refining or marketing or anything else, now that is the suggestion thrown out by witnesses, that the burden, and we are talking burden, it is the burden of taxation, that does not lie where it should. Granted that the Government should have all the money it gets. Now if you have anything to say about that we will be glad to hear you.

MR. FRAWLEY: Well, of course, there has not been in some provinces ---

THE CHAIRMAN: We will have no hesitiation in dealing with it in our report if upon reflection we think it is proper to do so.

MR. FRAWLEY: In some provinces there has been a rise, the oil companies, I think Nova Scotia is an instance where the oil companies dropped the tank wagon and the Nova Scotia Government increased the tax.

MR. NOLAN: They did the same here, we used to have a 2 cent tax here.

MR. FRAWLEY: Oh, yes.

MR. NOLAN: And gasoline came down 2 cents and the tax went up.

MR. FRAWLEY: Since the "Q" came down ,7 cents, the tax, now I have something here, there is an historical

statement, the same kind of information which Mr. Miller gave us in this, yes, there is the same information here and I might just take a minute to look at it, there is an historical statement of the gasoline tax, how it has gone up, and I just want to show you that, yes, here it is, now Alberta ----

THE CHAIRMAN: Where are you looking at?

MR. FRAWLEY: I am looking at Page 17 of this Exhibit which I filed, Exhibit "742".

THE CHAIRMAN: That is the Dominion Department of Trade and Commerce pamphlet?

MR. FRAWLEY: Yes, the Bureau of Statistics and Alberta, and, the story in Alberta is this ----

THE CHAIRMAN: Page?

MR. FRAWLEY: At page 17.

THE CHAIRMAN: That is the story of the increased taxation in Alberta.

MR. FRAWLEY: Yes, and I cannot ask you perhaps to consider Exhibit "728", or my Exhibit, I will give you these two Exhibit numbers, Mr. Chairman, Exhibit "682". Exhibit "682" which is the Imperial's statement of prices at Calgary on Ethyl and on Regular and on Third, the posted tank wagon prices and also service station prices, yes, but all exclusive of tax, that gives you historically what the situation has been since October 1930 right down to date in the case of Ethyl;; the same dates for "Q" and for Third from the 26th of August 1933 to date, so that is rather a complete story of the prices at Calgary and then in addition Exhibit "728" gives a history of the reductions from the Third of February, 1936 to date, so that my Exhibit "682" is more complete. Now going to page 17 of Exhibit "742" we find that on the

30th of April 1922 the price was 2 cents ---

MR. COTTLE: You mean the tax.

MR. FRAWLEY: The tax was 2 cents and on the 1st of June, 1929, it was increased to 5 cents with a refund of 4 cents; on the first of April 1933 it was increased to 6 cents with a refund of 5 cents; on the 1st of April 1935 it was increased to 7 cents with a refund of 6 cents. Now then it has remained there since the 1st of April, 1935 and it is during that time that these increases have, I mean these decreases in the price of gasoline have manifested themselves, the famous 7 cents which my friend is speaking about, because that is since the 3rd of February, 1936, the 7 cents.

MR. NOLAN: That is the 7 cents but you want to go back to 1931.

MR. FRAWLEY: And then you get what appears on Exhibit "682".

MR. NOLAN: And it is more than 7 cents.

MR. FRAWLEY: It has dropped from 25.5 cents, 1935, since 1930, 1930, it has dropped from 25½ cents to, well that is Ethyl, let us look at "Q", "Q" is better to look at since October 29, 1930 "Q" was dropped from 22½ cents to 16 cents. That is how many cents, that is 6½ cents. Now how much has it dropped since the tax was made 7 cents, the tax was made 7 cents on the 1st of April, 1935. Now at that time, when the tax was put at 7 cents, by increasing it to 7 cents the price on "Q" was 22½ cents and the price of "Q" has come down from 22½ cents to 16, 16½ cents and the gasoline tax has stayed the same, so there has been no attempt, I think it is, to be quite fair about it, there has been no

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attempt to keep up with the gasoline drops, in putting up the amount of the tax, as they dropped the price of "Q".

MR. NOLAN: That is not the suggestion, the suggestion is that the amount of the tax is practically equivalent to the amount of the reduction which has been made and you have just told us that.

THE CHAIRMAN: So that the public gets nothing out of it?

MR. FRAWLEY: Oh, well, I know but then ----

MR. NOLAN: We pay a 7 cent tax now and in the old days we paid none.

MR. FRAWLEY: In the old days.

MR. NOLAN: In the good old days.

MR. FRAWLEY: Before 1922, do you go back that far?

MR. NOLAN: We pay 16 cents for "Q".

MR. FRAWLEY: "Q"?

MR. NOLAN: And we used to pay 22½, that is 6½ cents.

MR. COTTLE: Yes, but when you were paying 22½ cents you also paid 7 cents on top of that.

MR. NOLAN: We agree with that but the reduction in the price, in the tank wagon price of "Q" is 6½ cents and the increase in the tax is 7 cents.

MR. FRAWLEY: The increase from nothing to 7 cents.

MR. NOLAN: Yes.

MAJOR LIPSETT: But in fact Mr. Nolan now, in the case of the farmer from 1932 his tax has been reduced from 2 cents to 1 cent.

MR. NOLAN: On his rebate.

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MAJOR LIPSETT: Yes.

MR. FRAWLEY: The rebate is another story.

MR. HARVIE: Exhibit "468", Mr. Chairman, it is all in graph form and that gives the tank truck price plus the tax and Alberta Provincial Taxes from the year 1925 to date and with the cent per gallon, that is all shown in Chart form.

THE CHAIRMAN: What page is that?

MR. HARVIE: It is the second chart in this.

(Go to Page 17,848)

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THE CHAIRMAN: Now where is Mr. Miller's evidence, do you happen to know? You can give it to me in the morning, Mr. Harvie?

MR.HARVIE: Yes.

THE CHAIRMAN: Is there something in the book that Mr. Brownlee left? That is the Exhibit right there.

MR. HARVIE: Page 262.

THE CHAIRMAN: What exhibit number is that?

MR. COTTLE: Exhibit "735".

MR. FRAWLEY: You might put down in your notes, just for reference purposes, the Exhibit number of Mr. Elliott's memorandum on Gasoline Taxes. It is Exhibit "632".

THE CHAIRMAN: What would you think about eliminating this tax?

MR. FRAWLEY: Eliminating it altogether? And substitute a Sales Tax generally?

THE CHAIRMAN: Yes. Perhaps you have not given it thought, Mr. Frawley.

MR. FRAWLEY: No, I have not given it any thought because - well no, I have not. I suppose I have somewhat taken it for granted all the witnesses seemed to say it is an easy tax to collect, even with all the evasion that there seems to be, and they just suppose it will just go on and on like Tennyson's Brook and we will always have the gasoline tax.

THE CHAIRMAN: They all complain bitterly about it.

MR. FRAWLEY: I mean Dr. Frey. Well,

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I do not know whether he said much about it. Perhaps not. I thought he rather begged to be excused from much discussion.

THE CHAIRMAN: I think so.

MR. FRAWLEY: It is a road tax. As long as the money goes to keep up the highways.....

THE CHAIRMAN: I have not heard any suggestion of that.

MR. FRAWLEY: What I say about that is.....

THE CHAIRMAN: Would you earmark it?

MR. FRAWLEY: Well I think that is very difficult because nobody has, as yet, done it.

THE CHAIRMAN: Well, but a lot of people have suggested that it be done.

MR. FRAWLEY: I have heard it said in certain places that there is no need to earmark it, that more is spent on roads than is collected, so why earmark it?

THE CHAIRMAN: That is one of the things we are taking the liberty of looking into. I have been concerned with this for a long time, and I have made it clear that I have. Because it seems to me when we are talking about what the public should pay for gasoline, that the gasoline consumer.....

MR. CFRAWLEY: Who pays the tax.

THE CHAIRMAN: And you find out what is the proportion of the cost of a gallon of gasoline as between the tax on the product he is paying for, it makes one pause.

MR. FRAWLEY: That is why I gave you this. I might call it to your attention again, in these

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three exhibits, the Calgary retail price breakdown is Exhibit "739"; the Edmonton retail price breakdown is Exhibit "738" and the Red Deer retail price breakdown is Exhibit "740". Those show that. Mr. Cottle worked out the percentage. In Edmonton the gasoline tax is 23.81% of the price. In Calgary the Gasoline tax is 26.41% of the price. In Red Deer the gasoline tax is 23.73% of the price.

THE CHAIRMAN: It is appalling, is it not?

MR. FRAWLEY: Compared to the 4% Sales Tax we had some years ago, of course.

MR. COMMISSIONER LIPSETT: And if you relate it back to crude oil it is away over 100%.

MR. FRAWLEY: In Calgary it is 26.41% of 26½ cents. That is the total gasoline price and that is all "Q" of course. That is the total retail price on "Q" products. In Calgary the price is 26½ cents and the gasoline tax being 7 cents is 26.41%.

MR. HARVIE: I can give you the reference to Mr. Miller's evidence, Mr. Chairman. His evidence on the point is contained in Exhibit "468", which is the same exhibit as the graphs I referred to, on Page 3.

THE CHAIRMAN: Thank you.

MR. FRAWLEY: Well, subject to what I may have to say about levelling out the taxes in the form of a general Sales Tax, I was prepared to go on now and discuss the question of a Board, Mr. Chairman.

THE CHAIRMAN: Yes, do you want to

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start tonight?

MR. FRAWLEY: No, I would rather begin in the morning, Mr.Chairman.

THE CHAIRMAN: I think we all agree that would be a wise course.

(At this stage the Hearing was adjourned until 10:00 A.M. 29th December 1939).

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